

## COUNCIL MEETING

SEPTEMBER 16, 2015

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Chair Mel Rapozo at the Council Chambers, 4396 Rice Street, Suite 201, Lihu'e, Kaua'i, on Wednesday, September 16, 2015 at 8:33 a.m., after which the following Members answered the call of the roll:

Honorable Mason K. Chock  
Honorable Gary L. Hooser (*present at 8:34 a.m.*)  
Honorable Ross Kagawa  
Honorable Arryl Kaneshiro  
Honorable KipuKai Kuali'i (*present at 8:34 a.m.*)  
Honorable JoAnn A. Yukimura (*present at 8:39 a.m.*)  
Honorable Mel Rapozo

### APPROVAL OF AGENDA.

Councilmember Kagawa moved for approval of the agenda as circulated, seconded by Councilmember Kaneshiro, and carried by a vote of 4:0:3 (*Councilmembers Hooser, Kuali'i, and Yukimura were excused*).

### MINUTES of the following meetings of the Council:

July 22, 2015 Special Council Meeting  
August 19, 2015 Public Hearing re: Resolution No. 2015-52, Bill No. 2459, Bill No. 2591, and Bill No. 2592  
September 2, 2015 Public Hearing re: Bill No. 2593, Bill No. 2594, and Bill No. 2595

(*Councilmembers Hooser and Kuali'i were noted as present.*)

Councilmember Kagawa moved to approve the Minutes as circulated, seconded by Councilmember Kaneshiro, and carried by a vote of 6:0:1 (*Councilmember Yukimura was excused*).

### COMMUNICATIONS:

C 2015-241 Communication (09/03/2015) from the County Engineer and the County CIP Manager, transmitting for Council consideration, proposed amendments to Ordinance No. B-2015-796, as amended, relating to the Operating Budget of the County of Kaua'i, for the Fiscal Year 2015-2016, by revising the amounts estimated in the Highway Fund to appropriate funds to provide the required 20% County Match for the Puhi Road construction project. (*Puhi Road 20% County Match (Operating Budget) - \$268,000.00*): Councilmember Kagawa moved to receive C 2015-241 for the record, seconded by Councilmember Kuali'i.

Council Chair Rapozo: Items C 2015-241 and C 2015-242 are related and the Bills will come up later, but I wanted to have the discussion in the communication section. C 2015-241 basically refers to the Bill that transfers funds from our Highway Fund, which is our road paving fund, to the Capital Improvement Projects (CIP) Budget. C 2015-242 references the Bill that will take the moneys

from the CIP Budget to the Puhi Road construction project. Let us vote on C 2015-241 and get that out of the way, and then we can have the discussion on C 2015-242. Councilmember Kagawa.

Councilmember Kagawa: I have a process question. This is only first reading, right?

Council Chair Rapozo: Correct.

Councilmember Kagawa: So we are going to have an opportunity for more extensive discussion at the Committee Meeting.

Council Chair Rapozo: Yes, it would still have to go to public hearing and Committee.

Councilmember Kagawa: Okay. Thank you, Chair.

Council Chair Rapozo: You are welcome. Any other discussion?

The motion to receive C 2015-241 for the record was then put, and carried by a vote of 6:0:1 (*Councilmember Yukimura was excused*).

C 2015-242 Communication (09/03/2015) from the County Engineer and the County CIP Manager, transmitting for Council consideration, proposed amendments to Ordinance No. B-2015-797, as amended, relating to the Capital Budget of the County of Kaua'i, for the Fiscal Year 2015-2016, by revising the amounts estimated in the Highway Fund CIP to appropriate funds to provide the required 20% County Match for the Puhi Road construction project. (*Puhi Road 20% County Match (CIP Budget) - \$268,000.00*): Councilmember Kagawa moved to receive C 2015-242 for the record, seconded by Councilmember Kualii.

Council Chair Rapozo: Again, there was some discussion from Councilmembers a couple of meetings ago about a bill showing up and we not having an opportunity to have the Administration here to discuss what the bill was so that the public could get an idea of what the bill was for before the public hearing. So rather than just put this on the Consent Calendar, I would suggest that the process going forward is that it shows up as a communication so the Administration or whoever the proposer of the bill is can come up and provide a background to the public before the public hearing, so at least they know what the bill is about. If you just read the money bill, you have no idea what the heck it is about. This way, the Administration can come up and talk about the bill, and then have some Council discussion. When we come to the bill later in the afternoon, all it will be is a vote. We can have all the discussion right here in the communication. With that, I will suspend the rules and ask the Administration to come up.

There being no objections, the rules were suspended.

LARRY DILL, P.E., County Engineer: Good morning Chair Rapozo and Members of the County Council. My name is Larry Dill. I am the County Engineer for the record. We are here this morning with these Bills before you, in a nutshell, because the moneys that we have currently appropriated for the Puhi Road project are not sufficient based on the bids that we received. The numbers came in higher than the engineer's estimate, provided to us by our consultant. The engineer's consultant based most of their estimate upon a recent project in Maui that was done, a similar type of project and similar size. They based their unit costs

that we used on that, and that is how the budget was prepared. This whole issue mainly occurred because late last year when our plans were pretty much done and were ready to move forward, some concerns were brought up by the community and stakeholders in that area, mainly in the Puhi Industrial subdivision, not about the scope of the work, but the impacts to traffic during construction. They were very concerned, understandably so, about access to their businesses during the construction period. We held multiple community meetings with them to go over a few different proposals that we came up with to see what would be most acceptable to them to minimize the impact. Two (2) main things came out of that, which during construction, they wanted us to try to maintain one-way traffic *makai* bound, so from the highway in towards Puhi Industrial subdivision as best we could, and we also needed to understand the ramifications of the recent construction of the roundabout at Nuhou Street and Kaneka Street over by Chiefess Kamakahelei Middle School (CKMS). We wanted to make sure that the trucks would be able to get out through there if we were going to be sending them in that direction. We did setup a little field study with the cooperation and many thanks to the folks who did participate in that and brought their trucks out there. Fortunately, I would say that that roundabout actually functioned better than designed. Kudos to the truck drivers who were very good in handling their big rigs through there, but we can confirm that that is an option for the trucks to get out. Having done all that, two (2) things happened: as I said, we maintain number one, one-way traffic in from the highway during the length of the project. They were also very concerned about the overall length of the project. I believe we had one (1) year scheduled estimate for the project. We changed that in the scope of work before we went out to bid to require that the contractor have two (2) lanes open after four (4) months. So they would have to get two (2) lanes of traffic available. They still had another eight (8) months to complete all the various parts of the project, but after four (4) months, they were going to be required to have two (2) lanes open. That obviously delayed our getting this project out for six (6) to nine (9) months than the schedule that we had planned back earlier last year. It also served to drive up the costs because of the extra restrictions that we are putting upon the contractor in pursuing that. That is basically the backstory and why we are here today requesting the transfer of moneys from the Highway Fund. What is it? Two hundred sixty-eight thousand dollars (\$268,000), I believe, in the Puhi Road project. I will be happy to entertain any questions.

*(Councilmember Yukimura was noted as present.)*

Council Chair Rapozo: Just by reading your memorandum, the low bid came in at twenty-four percent (24%) higher than was estimated by our consultant.

KEITH SUGA, County CIP Manager: Keith Suga, County CIP Manager. That is correct, Chair.

Council Chair Rapozo: I know you said there were some additions, but what we expected of them since the bids went out, does that justify a twenty-four percent (24%) increase? That is a substantial amount. I think Councilmember Yukimura remembers in one of the former discussions where she talked about that. The consultant's estimates historically, traditionally have been a lot lower than the actuals.

Mr. Dill: That is a good, fair question. The scope of work did not change. It was the manner in which we were constraining them to do the work that affected the bid cost. The scope of work did not change and their

estimate was based upon their best estimate based on a standard construction timeframe. When you add constraints like that, it gets difficult.

Council Chair Rapozo: I am just asking if the restrictions justify an additional...what is it? What is the total?

Mr. Dill: Two hundred sixty-eight thousand dollars (\$268,000).

Council Chair Rapozo: No, federal and state.

Mr. Suga: I think it is about one million dollars (\$1,000,000) total.

Council Chair Rapozo: Yes, so does the restrictions that we put on the contractor justify a one million dollar (\$1,000,000) increase?

Mr. Dill: Yes.

Council Chair Rapozo: What is the biggest cost factor?

Mr. Dill: The biggest unit cost is the cost of the concrete.

Council Chair Rapozo: But that did not change? The scope did not change, right?

Mr. Dill: Correct.

Council Chair Rapozo: Aside from the scope...

Mr. Dill: The actual improvement cost?

Council Chair Rapozo: No, the restrictions that you are saying.

Mr. Dill: Oh.

Council Chair Rapozo: Because you are saying that the scope did not change.

Mr. Dill: Correct.

Council Chair Rapozo: Therefore if the scope did not change, we are saying that the restrictions that the County has put on them have added the costs. What would that restriction be that is causing an increase of about one million dollars (\$1,000,000)?

Mr. Dill: Yes, it does not show up as an individual line item in the contract, so it is different because they would have worked it into all of their budget items, but I would say that the biggest restriction was getting the two (2) lanes of traffic open in four (4) months. They would have to work longer hours and maybe put in overtime costs to do that in order to get it done.

Mr. Suga: Chair, just to provide some additional information, I think we received four (4) bids total and the top three (3) bids were

about the same in terms of total bid, so it kind of gives you an idea of the market and where the pricing is for this type of work.

Council Chair Rapozo: My concern is with all of these bids that come back later because the estimate was lower than the actual bid. So we put it out to bid and we give all of the contractors the same information. They all bid. We award the bid, and then we say, "By the way, there is an additional cost involved." You can jump in if I am wrong.

Mr. Suga: We have not awarded the bid yet because we do not have the sufficient funds.

Council Chair Rapozo: That makes me feel better. Now, the contractor that bid low...the other contractor is going to have an opportunity to bid on this new number, right?

Mr. Dill: No, they have all supplied bids based on the scope that we put out and so we received the bids now, reviewed them, and we are moving forward now requesting additional funds based on the low bid. There is a level playing field for everybody. Nothing changes.

Council Chair Rapozo: No, but the cost of the contract now is substantially higher.

Mr. Dill: Correct.

Council Chair Rapozo: But the low bid at the time...we have decided who the contractor will be, right?

Mr. Dill: We have a low bidder, but we have not made any final decisions yet. It has to go through the process of confirmation.

Council Chair Rapozo: I guess my question is for the other contractors that bid, and I do not know any of the contractors so I am not here to advocate for any contractor...I do not even know who we have, but the other contractors would not have an opportunity to bid and possibly get a lower bid in, even with the additional restrictions.

Mr. Dill: No, everybody bid with those restrictions already in place by us. So we put out the project with the information for everybody, for the whole world to bid on...

Council Chair Rapozo: So the restrictions are included in the bid price.

Mr. Dill: Yes.

Council Chair Rapozo: Okay. Councilmember Kagawa.

Councilmember Kagawa: Thank you, Chair. If I can kind of step back just so we can get some understanding. The Puhi Road federal match was how much? So are we going to get additional matching based on the two hundred sixty-eight thousand dollars (\$268,000) as well?

Mr. Suga: Correct. Public Works Engineering did the request to the Federal Highway Administration (FHWA) through the State of Hawai'i Department of Transportation (HDOT) for the additional funds and that has been accepted by Federal Highways, so they have provided authorization.

Councilmember Kagawa: How much are we up to now as far as the federal side?

Mr. Suga: Three million six hundred thousand dollars (\$3,600,000).

Councilmember Kagawa: Okay. How much is the County side?

Mr. Suga: Right now in the CIP Budget, we have six hundred forty-one thousand dollars (\$641,000).

Councilmember Kagawa: So we are spending six hundred forty-one thousand dollars (\$641,000) of County moneys and we have to add another two hundred sixty-eight thousand dollars (\$268,000) if this gets approved.

Mr. Suga: Correct.

Councilmember Kagawa: The total would be about...

Council Chair Rapozo: Nine hundred nine thousand seven hundred thirty-six dollars (\$909,736).

Mr. Suga: Yes, Chair is correct.

Councilmember Kagawa: I guess my question just hypothetically is, would nine hundred nine thousand dollars (\$909,000) be sufficient to repave Puhi Road without all the "bells and the whistles?"

Mr. Dill: No.

Councilmember Kagawa: Like "Complete Streets?" By "bells and whistles," I mean Complete Streets with two (2) sides of walkways and bikeways. Would that have been sufficient?

MICHAEL MOULE, Chief of Engineering Division: I am Michael Moule. I am the Chief of the Engineering Division with the County. It would not have been enough. Let me just explain a little bit more about what we have analyzed and our justification to the State DOT about why the bids were higher. Essentially, it boils down to one (1) item. Bid prices are varying for all the different items, but the one major item with this project was the concrete pavement itself for the road.

Councilmember Kagawa: Okay.

Mr. Moule: Eight (8) inches deep concrete pavement with reinforcement. That is a pretty significant amount. As Mr. Dill mentioned, the price for that particular item was based on a project on Maui, which was the Kahului Airport Road project, which I believe was built with no traffic on the road at all. They had full access to do everything, which they are not going to have in this case because they are going to have one-way traffic going down when they build

it. Yes, our consultant probably...and we should have caught...maybe we should have bumped that price up a little bit, but we did not. We used that price and for the concrete pavement item, we had a seven hundred eight thousand dollar (\$708,000) estimate for that bid item. That was our estimate for that item. The contractor's bid was one million four hundred ninety thousand dollars (\$1,490,000), so the difference there is seven hundred eighty-two thousand dollars (\$782,000), which is almost exactly the amount of the difference of this bid. It really has to do with the structure of the pavement itself that was much higher than what our estimate was. Also to clarify, the bids of all the other contractors were similar. For that particular item, we are within one hundred seventy thousand dollars (\$170,000) either way, so it was about ten percent (10%) of the other bids. We were just off on that particular item and it happens. For most of our projects that were bid this year, the bids came in lower than our estimates for all the asphalt jobs and the guardrail jobs. We hit and miss. In this case, we were off (inaudible).

Councilmember Kagawa: Okay.

Mr. Dill: Councilmember Kagawa, one more thing I will add if you are looking at the breakdown, the sidewalk out of the three million six hundred thousand dollar (\$3,600,000) bid is one hundred thousand dollars (\$100,000) to add the sidewalk, so not a significant (inaudible).

Councilmember Kagawa: Okay. Is this four million five hundred thousand dollars (\$4,500,000) total, federal plus state, just for Phase 1?

Mr. Suga: That is the total from the highway down to Kaneka.

Councilmember Kagawa: Highway to Kaneka. Then Phase 2 would be from Kaneka to?

Mr. Suga: Haleukana.

Mr. Moule: Kaneka to Haleukana.

Councilmember Kagawa: All the way down to the bottom?

Mr. Moule: Not all the way down to the bottom, but to the entrance at the Villas at Pū'ali.

Councilmember Kagawa: Okay. Kaneka is right across from Mark's Place?

Mr. Moule: Kaneka is the four (4) lane road that comes from the roundabout, and then Hanalima is the one that turns into Mark's Place.

Councilmember Kagawa: So Phase 1 will not even reach the Puhi Industrial yet.

Mr. Moule: Correct.

Councilmember Kagawa: But it would be pretty close to it. Okay. My last question for now is how did we improve by changing the scope and telling the contractors to try and accommodate some of the requests that we had from the

community, especially from the businesses and residents? How much months have we improved the lifestyle for the businesses and residents?

Mr. Dill: Essentially, I believe originally the contract was put together as a one (1) calendar year contract.

Councilmember Kagawa: Like a one (1) year shut down of that portion?

Mr. Dill: Well, the way they were planning to do it was in phases, so they were going to shut down a portion of Puhi Road at a time, both lanes, as they moved through the project. That was what caused major concerns for the residents and the stakeholders down there. So now we are changing it so that we are doing one side at a time to maintain one-way traffic in throughout the duration of the project. Before we were doing it in phases and those both lanes in and out would have been shut down.

Councilmember Kagawa: So it is kind of like what happened with Kapule or when they did that cement pavement, they always left one (1) lane open.

Mr. Dill: Yes, I think that is right.

Councilmember Kagawa: Okay. Thank you.

Council Chair Rapozo: Any other questions? What is the total cost? How many phases do you have for Puhi Road?

Mr. Dill: From what we are currently doing now is the highway to Kaneka, which is what we are calling Phase 1. Phase 2 would be Kaneka to Haleukana Road.

Council Chair Rapozo: Which is the road that goes into the industrial, right?

Mr. Dill: No, that is the road that goes down to the townhouse project where Dickie Chang lives.

Council Chair Rapozo: Yes, but does it not cross into the industrial?

Mr. Dill: No, further *makai*. It is passed the Puhi Metals site.

Mr. Moule: There are two (2) entrances to the industrial site. The first entrance is Hanalima, which is the main one that most people go into. If you keep going another quarter mile, there is another street. To the left are the Villas at Puali and to the right is Haleukana Street, which goes into the backway into Puhi Industrial.

Council Chair Rapozo: That is what I said.

Mr. Dill: I am sorry. You are right. The second one does.

Mr. Moule: It is not the main entrance to Puhi Industrial.



Mr. Dill: I apologize. You are right. It is the second entrance.

Council Chair Rapozo: Right. I go there quite a bit, so I know where Haleukana is and I am just saying that it is one of the entrances. It depends which way you are coming from. If you are coming from the bypass road, guess what is the first road to the industrial? It is Haleukana. It is the loop that goes around the industrial.

Mr. Dill: Correct.

Council Chair Rapozo: So that is Phase 2.

Mr. Dill: Correct.

Council Chair Rapozo: How much is that project?

Mr. Dill: We are just in the early design phase. I do not know if we have a construction estimate for that.

Council Chair Rapozo: That is a lot longer, right?

Mr. Moule: We do not have a projection estimate for that project yet. I do not have my...

Council Chair Rapozo: Do we have federal funding for that?

Mr. Moule: We do have federal funding.

Council Chair Rapozo: How much is the federal funding for that?

Mr. Moule: Unfortunately, I did not bring that spreadsheet.

Mr. Suga: We have federal funding for the planning and design efforts that Public Works is undertaking right now and I believe the total is five hundred thousand dollars (\$500,000), so the 80/20 split.

Council Chair Rapozo: But that is just for planning and design.

Mr. Suga: Yes, for planning and design.

Council Chair Rapozo: Not for construction.

Mr. Suga: Not for construction, correct.

Mr. Moule: I believe it is in the step for 2018 for construction for the second phase, but I do not remember the amount that is...

Council Chair Rapozo: I have a follow-up to Ross's question. If we just chosen to redo the road with blacktop, reinforce it, and make it strong, then what is the price difference between going with the asphalt?

Mr. Moule: I am going by memory now. When we changed the scope to add sidewalks and hard surface parking, and we actually arrowed the shoulders to put in bike lanes, we estimated I believe a change of total costs of additional...I think it went from two million five hundred thousand dollars (\$2,500,000) to three million five hundred thousand dollars (\$3,500,000) roughly. Now, this particular item that we were clearly underestimating the cost of is still going to be twenty-four (24) feet wide instead of I think now we have thirty-three (33) feet of this eight (8) inch deep concrete. We probably would have been less difference than that one million dollars (\$1,000,000) because we were underestimating this particular item, if that makes sense. We could do a calculation roughly to see what that would have been, but I would estimate based on looking at these numbers and the other numbers before when we had the other estimate, maybe the total cost of the project might have been seven hundred thousand dollars (\$700,000) to eight hundred thousand dollars (\$800,000)...six hundred thousand dollars (\$600,000) to eight hundred thousand dollars (\$800,000).

Council Chair Rapozo: If these moneys are not approved, what happens? Do you reduce the scope?

Mr. Dill: We would have to procure the project again, so it would certainly set us back time-wise. We would have to look at things so we can reduce or maybe bid them as additive alternates, but we would have to go back through bidding.

Mr. Moule: We can also of course try to go back to our original plan with traffic control, which was to close the road completely. I do not know how much that would improve the bid, but I think it would improve it somewhat. We think that was one of the major reasons, but there are other reasons why a contractor may have bid higher on this item than we estimated, so we do not know what we would get if we did that honestly.

Council Chair Rapozo: Okay. Councilmember Kualii.

Councilmember Kualii: Does the two hundred sixty-eight thousand dollars (\$268,000) only represent the twenty percent (20%) part, which is the County's share?

Mr. Moule: Yes.

Councilmember Kualii: These are just some basic questions that I just do not understand, but are the moneys sitting in the Highway Fund both County moneys and federal eighty percent (80%) moneys?

Mr. Moule: No, County moneys.

Councilmember Kualii: All County moneys. What is the available balance in the Highway Fund that you are transferring this two hundred sixty-eight thousand dollars (\$268,000) out of?

Mr. Suga: I believe the original amount was one million two hundred thousand dollars (\$1,200,000), which would be roughly nine hundred thousand dollars (\$900,000) left in that item.

Councilmember Kualii: What is the other side of the picture as far as the eighty percent (80%) and are those federal funds available? Is there a pot somewhere?

Mr. Suga: Federal government and through HDOT does authorize the eighty percent (80%) funds, which Public Works has gotten authorization for the full amount, if you would.

Councilmember Kualii: For the new increase?

Mr. Suga: Correct.

Councilmember Kualii: What was that amount?

Mr. Suga: I think it was two million eight hundred thousand dollars (\$2,800,000)...no...three million six hundred thousand dollars (\$3,600,000).

Councilmember Kualii: Okay.

Mr. Moule: The total match.

Mr. Suga: The total eighty percent (80%).

Councilmember Kualii: Oh, so with the increase, it is up to three million six hundred thousand dollars (\$3,600,000)?

Mr. Suga: Correct.

Councilmember Kualii: But you do not know what the increase was.

Mr. Moule: We can calculate it.

Councilmember Kualii: Twenty-four percent (24%)...new total. The line that Chair and Vice Chair was asking about as far as the bare minimums and possibly bringing the price down, could it also bring down the time to complete and the hardship on the neighborhood? I heard some weird stories about people having to leave their homes for a period. That did not make sense because they would not be able to get in and out. You are going to close the road completely or are you going to do this one (1) lane and make it available? Right along that road, there is at least ten (10) to fifteen (15) homes, right?

Mr. Moule: Yes, there are. I believe there are eighteen (18) if I recall correctly. I could be wrong, but it is somewhere in that range, from fifteen (15) to twenty (20). The plan right now is to leave the road open one way during the entire duration of the project, which was not the original plan. That was changed after public meetings. The first meeting was last September, and then we had a meeting in February or March. There would always be access down the road. One of the things is that the change to the project is doing well. Either way, we would have been reconstructing everyone's driveways going down the road, regardless of whether we did it without sidewalks or with sidewalks.

Councilmember Kualii: Like you did here in Hardy?

Mr. Moule: Yes, like we did here in Hardy. Every driveway has to be reconstructed to match the new grade of the street. I believe that under the old design, they would have reconstructed an asphalt blacktop, which means that once you pave it, you can drive on it almost immediately. With the new design with curbs, gutters, and sidewalks, the driveways would be reconstructed in concrete pavement, and therefore you cannot drive on concrete pavement for at least a few days until you get a certain level of strength. For each individual property owner, they get a brand new driveway out of concrete, but there will be a few days for each individual property where they cannot drive across it because it has to cure. That is something that we worked out between the contractor and the property...

Councilmember Kualii: But they not being able to drive across it, there will still be one (1) lane of access and they will be able to park across the street and walk across it, so there is nothing crazy about them having to leave their homes.

Mr. Moule: They just would not be able to drive into their driveway for a short period of time. They would have to park nearby. We have not worked out exactly where people would park, but that is something that we worked out between us, the contractor, and the residents to make sure that they have access to their homes. Again, not being able to drive across their driveway for a few days, but access nearby and can park and walk to their house.

Councilmember Kualii: Was there any other input from the community when you resolved this issue about making sure you leave one (1) lane open so that they have access, with regards to the need or desire for full sidewalks on both sides of the street or whatever the really upgraded plan is? I know we have heard mostly from constituents to fix the holes in the road because it is destroying their cars. That is first and foremost and that obviously needs to be done. Do we really need sidewalks? I do not know what the full plan is, but I can see what Hardy looks like and it is beautiful. It is right in the middle of town, right next to a school, the library, and State and County complexes. This is a busy area and we obviously need the full scale walkability and all that. There in this industrial area in Puhi...it is my neighborhood; I grew up there. Does the community really need and want the full treatment like we have here in Hardy?

Mr. Moule: First of all as a point of clarification, the design has sidewalk on one side of the street, on the house side only, and the idea being that there are residents there that access from their houses, walk down to the stores there on Kaumuali'i Highway. There are a lot of apartments down at the other end of Puhi Road. I understand that students live in those apartments and walk to...I see people walking up and down Puhi Road when I go through there and could potentially walk to Kaua'i Community College (KCC) and maybe Island School, though not many kids will walk there. It is probably the older college students walking to KCC. Again, we specifically went with one side of the road, partly because it would have been challenging space-wise to put it on both sides, but because we recognized that one side has much more need than the other side where again it is industrial. There was public input during the public meetings to answer your question on that and encouraging the use of having sidewalks for access along the street.

Councilmember Kualii: Thank you.

Council Chair Rapozo: Any other questions? If not, thank you. Anybody in the audience wishing to testify? Mr. Mickens.

GLENN MICKENS: Thank you, Mel. For the record, Glenn Mickens. This Puhi Road project has been going on for I believe seven (7) years. It is in horrible shape and it gets worse each year. When we did our paving each year instead of every two (2) or three (3) years, it seems that projects like this would have been taken care of. Each year, we had about two million dollars (\$2,000,000) in our budget for paving. We went out to bid, a low bidder got it, it was okay by this Council or the Council at the time, and the work was done. Why was this procedure changed? We never heard why they changed this procedure to two (2) to three (3) years, accumulating money and we sit here with projects like this waiting to be done. With the few people who use bikes for recreational purposes, why are we or the feds mandating that we use valuable road space for bike lanes? The mass of the people will never abandon their vehicles for bikes, buses, or walking. Use yourselves as an example for it. I cannot see any one of you people that will ever leave your car and get on a bus, bike, or walk. You have your vehicle. That is what it is for. Traffic is horrendous. I have driven on that road a few times and those potholes are horrible, but it is crazy it seems to have something like this go on and on and have the people complaining. See the "Letters to the Editor." I would suggest that we find out why we are not using our paving budget to do it every year like we did in the past. Thank you.

Council Chair Rapozo: Anyone else wishing to testify?

JOE ROSA: Good morning Members of the Council. For the record, Joe Rosa. I hear so much about this Americans With Disabilities Act (ADA) and all this fancy things that is going on in Hardy and in this immediate area. Just this morning as I was turning into 'Eiwa, at the so-called "fancy looking bus stop," which to me, is totally in the wrong place. When you are coming in at the turn there, one bus was parked in front and the other one had the 'ōkole sticking out. You are coming around the turn and there is not enough room for two (2) buses. There are too many fancy curbs. One night, I saw somebody hit the curb by the Convention Hall because you have somebody that comes out and goes back in. Why do we have all of those fancy things? That is a hazard on the road. I do not know why this fancy designing is happening and what they are designing for. That is not a typical highway thing. They are getting too fancy. Another thing is how many times right here by the entrance from the post office to the County Building...why only a five (5) foot radius curb? On a main thoroughfare such as that there, they should have at least fifteen (15) feet radiuses. That is common engineering sense. The designers who are doing this are not aware of the area around here. It is the same thing for Hardy Street. I know cars have a hard time turning in here now. The radiuses are too small and short. You are going to see a lot of black marks on the curb by the post office in that area. That goes for many other places. People are climbing the curbs. Is that part of modern engineering design for ADA? It is terrible and you are paying big bucks for something that is not really done properly. Just this morning when I was coming in and trying to make the turn, I see the car stop and I was wondering why he had to stop. Sure he had to stop because the bus's 'ōkole was sticking out. You are trying to make modern progress, but I think we are going a step backwards. I can say this is really pitiful engineering because the designing is terrible. How much are you paying for these consultants? All of these roads around here, I see them and all the radiuses curbs are too small. The main thoroughfare...Ross, you see that...like the other day when I was on Rice Street here, I thought there was an accident. A car was trying to make a left turn into Rice Street and another car was trying to go in. That radius

is so small that the one trying to turn and get off so that the flow of the cars can go through, but they are stuck. If I had anything to say, I would tell this County, "Hey, start redoing all of those radius curbs so that people can get access easily off the main street into the side roads." It is terrible and we are paying big bucks for things like that that is not serving the purpose.

Council Chair Rapozo: Your time is up. Thank you.

Mr. Rosa: I thank you. Go and look at those curbs. What is so *manini* about giving fifteen (15) foot radiuses?

Council Chair Rapozo: Mr. Bernabe.

MATTHEW BERNABE: Good morning everybody. Matt Bernabe for the record. Just for clarification, is this a Bill to increase the funding for that? Are these communications to increase the funding to repair that road over there?

Council Chair Rapozo: Real quick, you were not here when we explained it, but it takes the money from our current Highway Fund, which is our road paving fund, and transfers it to the Puhi Road project.

Mr. Bernabe: Well, I would like to use this opportunity to express that this could be some of that Transient Accommodations Tax (TAT) that we are not receiving from the State that could help to address this issue, especially since some of that TAT money comes out of a rental car. It is not just hotels, but it is also rental cars. Yes, it is. It is not just hotels; it is rental cars also. I would just like to take that opportunity to point that out. I would also like to take this opportunity just to point out that I am curious why it is taking so long, because I am from the east side, but my daughter used to go to gymnastics in Puhi and I also go to Puhi for the motorcycle shop. I use that industrial place a lot. The road from Keālia Post Office and rodeo was paved some years back before that road and I was shocked. I would just like to point out that the hierarchy of priorities is kind of weird to me that this has not been done a long time ago. The other thing I would like to say is that I love the way this new road over here looks, but I hope you do not plan on putting the center dividers there with those plants because I am curious who is going to maintain those plants when those trees need to get trimmed and that grass needs to get cut. That is just incurring more costs to me, so I hope they are not planning that over there with this increase and that it is strictly for infrastructure. That is all I would like to say. Thank you very much.

Council Chair Rapozo: Thank you, Matt. Next speaker.

KEN TAYLOR: Ken Taylor. First I want to thank Larry and his team for what I believe has been a very long process. I attended the neighborhood meeting back in March and I felt that they had answered a lot of the questions and issues that had been raised at the earlier neighborhood meeting, and I believe most of the people went away very pleased with the activities. There were also some additional requests for considerations. I think for the most part, Public Works has really reached out into community. One of the problems is that when you have roads such as Puhi that has been in bad shape for a long time and now you want to make these improvements and people get used to parking improperly on roads when you have no curbs, gutters, sidewalks, and that kind of thing. Time comes when those changes have to take place. Will it be inconvenient for a few people? It possibly will where you have some of those homes who look like they may have extended families in them, six (6) or eight (8) cars, and that kind of thing that

creates problems. For the most part, I think in the long run it will be a great improvement and I think it is important that this moves forward because that road right now is like a warzone and this project certainly needs to move forward. Thank you.

Council Chair Rapozo: Thank you. Anyone else? If not, I will call the meeting back to order. Further discussion? Councilmember Kagawa.

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Kagawa: Thank you, Chair. I attended some of those meetings as well at Chiefess and I kind of disagree that a lot of people were satisfied, but I think the County is trying to think long-term, complete streets, and what have you. I think towards the future as we do this huge project, but at some point I think we need a process that is accountable. We cannot continue to always design something and say at the end, "Oh well, the price is too high, so we have to move the price up." I think we have to operate more like the private sector and say if we have this much money and this much is approved, and the contractors' bids comes in higher, then let us take away some bells and whistles and work within what moneys we have. I understand that we want to do it all at one time, but to me, if you look at Hardy Street, it is not necessary to have these expensive curbs leading to every driveway with planters. Sure, it is nice to have, but do we need it? Do our taxpayers need to have only these certain homes have these planters and curbs leading into their houses? If we have planters and curbs into every house, then fine, but that is not the case. Like I say, we are kind of broke right now and we need to spend our money wisely, make decisions when we have to, and like I say, if we are working within a budget, it comes out a little higher, and we want to accommodate businesses, then great. I am glad that the County Engineer decided not to shut down Puhi Road for one (1) year. That is ridiculous to force everybody through the roundabout by Chiefess, especially the large trucks. Now at least we have one-way traffic that is going to be flowing through. I thank Public Works for working with the contractors and with the bid to accommodate some of the public concerns that came, especially from the businesses. Of course, we do not want to impact our businesses because if you impact them, either they will go out of business and people will lose their jobs, or the price is going up. It is common sense. I am glad that we opened up that avenue. Like I said, as we design more of these roads, we need to try and work within our budget. We cannot just always come back to the Council and take moneys out of that Highway Fund. We are back what...one hundred million dollars (\$100,000,000) in repaving all of the roads? That does not mean that whenever there is money there and you are spending too much in another road that you are just going to take it from that fund because someplace else is going to lose out. Again, sometimes we have to cut the bells and whistles down. That is my take. We cannot have it all. We have to work within our budget. Thank you, Chair.

Council Chair Rapozo: Thank you. Anyone else? Councilmember Yukimura.

Councilmember Yukimura: Yes. I want to commend the foresight and work of our Public Works Department in the planning and design on the reconstruction of Puhi Road. The fact that we are going with concrete instead of pavement means it is going to last a lot longer and it is much more cost effective than having to come back and put everybody through this kind of construction phase often. The concrete is a very good choice. We are fixing the potholes in the

roads to help the car and truck drivers, but I am very thankful for the foresight in including the other complete street features, such as sidewalks and bikeways, because it is actually helping the car and truck drivers because you are getting cars off the road. It is a “win-win” and we all know that reducing traffic congestion is one of our goals. Having people be able to walk or bike on the short trips, i.e., those who live in those apartments in Puhi can walk to KCC instead of getting into a car and driving to KCC, is helping to reduce traffic congestion. I also appreciate that extra effort in terms of creating functionality during construction and paying attention to the needs of both the businesses and the residents to use those roads even while the reconstruction is going on. I really think there has been good work here and I appreciate it very much.

Council Chair Rapozo: Any other discussion? Councilmember Kualii.

Councilmember Kualii: For me, I kind of see it the way Vice Chair Kagawa sees it, but also the way that Councilmember Yukimura sees it and I think it is very nice to have. The way it looks here at Hardy Street is good, but I do not think it applies everywhere. I think in the middle of a busy city where you can justify more people walking, especially across a school that is across a neighborhood. There may be plans for the future, but now we have to fill it in with lots of housing. Look at the state highway—it is kind of crazy and kind of a monstrosity. What I hear from most people is “why?” Why did we as a state spend so much money on this, and it is nice to invest in the concrete when the price is low because it lasts longer for the road itself, but to have two (2) wide sidewalks on both sides...we all see...maybe in twenty (20) years or thirty (30) years, there will be a lot of people walking on those sidewalks and they will be wearing and tearing that concrete, but it is not really being used. Where is the Return On Investment (ROI), if you will? Clearly, engineers and planners do all of your work with traffic counts to determine the need, and how much cars are driving through. Are you actually doing any kind of studies about how much people are walking through? We have seen complete street presentations where they show...I think they called it a “goat trail” or something where a lot of people are walking on the side of the road and they actually create a manmade trail, so you know that is being heavily used. All over our island in our residential neighborhoods where traffic is supposed to be going slower, because that is where people are...their front yard is right outside of that road, people walk on the side of the road all the time. That is our rural way. We have to balance where we are putting sidewalks and really accept that it is costing more. If we have a one hundred million dollar (\$100,000,000) backlog in resurfacing, every penny should be going there first. Yes, when we can and we try, that special areas, like maybe in the middle of town where everything is, we do that kind of investment, but we have to think more carefully about where we are investing and doing that and where we can for our people to best use their hard-earned tax dollars. Thank you.

Council Chair Rapozo: Anyone else? If not, I will just say that I attended the meeting at King Kaumuali'i, the last one if I am not mistaken. I did not get the same impression that Mr. Taylor got. I think Councilmember Kagawa was at that meeting as well and there were quite a few upset people. There were a lot of questions that were not answered, but at the end of the day, it is a decision that has been made and it is frustrating. With all of those, what I call “amenities”: the planters, plants, vegetation, and what we are seeing here in Hardy; that comes with a cost as well and that cost is eternal. Somebody has to fix or clean that or somebody has to maintain it. I am not sure what the arrangement is with the County, if we are contracting that out or if we are doing it ourselves. At the end of



the day, there is a cost to that and I agree with Councilmember Kagawa that there is a way to do things a lot cheaper. The biggest problem that I have with this is that we are taking two hundred sixty-eight thousand dollars (\$268,000) out of our Highway Resurfacing Fund, which is troubling. A twenty-four percent (24%) increase from our estimate is troubling as well. When a consultant cannot take a look and realize...obviously we cannot shut the whole road down in a neighborhood. What are the people going to do? I was at that meeting when the question was asked and I heard the response was, "Well, they are going to have to work it out with the contractor." The person at that meeting is thinking, "What are we going to do?" There was no answer provided. "Work it out with the contractor." What is the contractor going to do? Where are you going to park in all of that construction? It is not like Hardy where you had street side parking. That area is going to be very congested. I do not know where you are going to park, especially when they are going to be working on sidewalks. I do not think that is a valid response to the community. "We have not figured it out, but it is something that you will have to work out with the contractor." I do not know...this one is a tough one. I think for me that project could have been done and if we can scale it back and not touch the money or is there another project out there that we are not going to do? Is there another project in our CIP Budget that we are not going to get to? Take the money from that. Do not take the money from the roads. That is what concerns me. We are taking it from highways and we are taking it from paving. We keep being told that we are one hundred million dollars (\$100,000,000) behind, so why would we go after that fund? Is there another project that we know we are not going to get to this year or we know that is not as important that we can take from? Stop taking from the roads' funds. I am troubled and concerned and we will see what happens. Throughout all of these things, I think we learn lessons. I think at some point, the Council has to exercise the discretion and the authority and say, "No, that happened with the last project, so we are going to put our foot down for this project and from now going forward, you folks make the right decisions and find the right consultants and make it work." Do not always come up here and say, "We need more money. Unfortunately it was unforeseen." It seems like it is pretty common. Maybe not recently, but historically it has always been an issue. This is only a motion to receive. We will have the Bill come up later in the day and I am hoping we can just get through that and schedule this for a public hearing. Councilmember Yukimura.

Councilmember Yukimura: Why not take it from the Highway Fund? We are repaving a road. That is the perfect fund to take it from. The reconstruction of Puhi Road is a repaving job essentially, except that we deferred it for so long that it has to be a reconstruction job. It is the proper fund. If we are concerned about the fund, we could increase the fuel tax and the vehicle weight tax and have people who are causing the damage to the road pay a portion of their share for that fix. It is a perfectly logical source of the moneys to repave Puhi Road.

Council Chair Rapozo: "In the eyes of Councilmember JoAnn Yukimura." Councilmember Kagawa.

Councilmember Kagawa: Can I remind Council that I did not and you did not vote for the increases to the vehicle weight tax and the fuel tax. We already did increase it and people are complaining about how high their payments are when they register their motor vehicles. We already did it.

Council Chair Rapozo: Thank you. With that, there is a motion to receive on the floor.

The motion to receive C 2015-242 for the record was then put, and unanimously carried.

Council Chair Rapozo: Next item.

Ms. Fountain-Tanigawa: The next item is on page 2.

C 2015-243 Communication (08/18/2015) from the Housing Director, requesting Council approval for the following:

- a. Approve the acquisition of improvements on leasehold property situated at 4611 Lilia Place, 'Ele'ele, Hawai'i for not more than \$218,225.00;
- b. Approve the leasehold resale of property situated at 4611 Lilia Place, 'Ele'ele, Hawai'i for not more than \$218,225.00, to a participant on the Affordable Housing Program Waitlist whose household income does not exceed 120% of the Kaua'i Median Household Income (KMHI); and
- c. Authorize the County Clerk to sign legal documents related to the acquisition and resale transactions.

Councilmember Yukimura moved to approve C 2015-243, seconded by Councilmember Kagawa.

Council Chair Rapozo: Any discussion? Public testimony? I will suspend the rules.

There being no objections, the rules were suspended.

Mr. Bernabe: Matt Bernabe for the record. From what I read here, this looks like a great program and it does not even look like we are losing money. I am just curious if there has been a number drafted, and I am assuming it is slightly under one hundred thousand (100,000), what one hundred twenty percent (120%) of the median price is. It says, "Cannot exceed one hundred twenty (120%) of Kaua'i's Median Household Income." Has anybody drafted a number? I am assuming it is right under...if we are going by those Housing and Urban Development (HUD) numbers, which was seventy-six thousand dollars (\$76,000) or seventy-eight thousand dollars (\$78,000), so ten percent (10%) is...it is right under one hundred thousand dollars (\$100,000), but I would still like to know what that breaks down to. That is my only question. From what I read, it looks like I support this.

Council Chair Rapozo: Thank you. Any other public testimony? If not, I will call the meeting back to order. Further discussion?

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Yukimura: As Mr. Bernabe pointed out, this is a very successful way to provide affordable housing. Two hundred eighteen thousand dollars (\$218,000) for a leasehold is doable for our families and I really want to commend the Housing Agency for going into this leasehold program and making these houses affordable long-term for families that really need this. Thank you.

Council Chair Rapozo:                      Anyone else?

The motion to approve C 2015-243 was then put, and unanimously carried.

LEGAL DOCUMENT:

C 2015-244 Communication (09/03/2015) from Deputy County Attorney Jodi A. H. Sayegusa, recommending Council approval of a Dedication Deed from McBryde Sugar Company, LLC, conveying the following real property to the County of Kaua'i for a portion of the northern leg of the County's Western Bypass Road, as these parcels are the remaining parcels that are required for the right-of-way that will connect Maluhia Road to Kōloa Road; and fulfills Condition 9 of Ordinance No. PM-2004-370: 1) Lot 2-C as set forth on the subdivision map and is identified as Tax Map Key (TMK) No. (4) 2-7-003-018; and 2) Lot 9-J-2 as set forth on the subdivision map and is identified as TMK No. (4) 2-7-003-014.

- Dedication Deed

Councilmember Kualii moved to approve C 2015-244, seconded by Councilmember Kagawa.

Council Chair Rapozo:                      Anyone in the audience wishing to testify?  
Any discussion?

The motion to approve C 2015-244 was then put, and unanimously carried.

COMMITTEE REPORTS:

BUDGET & FINANCE COMMITTEE:

A report (No. CR-BF 2015-28) submitted by the Budget & Finance Committee, recommending that the following be Approved:

“Bill No. 2593 – A BILL FOR AN ORDINANCE TO AMEND ORDINANCE NO. B-2015-796, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2015 THROUGH JUNE 30, 2016, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND, HIGHWAY FUND, LIQUOR FUND, SOLID WASTE FUND, SEWER FUND, AND GOLF FUND (*Units 2, 3, and 4 Collective Bargaining Increases – \$912,369*),”

Councilmember Kualii moved for approval of the report, seconded by Councilmember Yukimura, and unanimously carried.

A report (No. CR-BF 2015-29) submitted by the Budget & Finance Committee, recommending that the following be Approved:

“Bill No. 2594 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2015-796, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2015 THROUGH JUNE 30, 2016, BY REVISING SECTION 19 OF THE OPERATING BUDGET PROVISOS,”

Councilmember Kualī'i moved for approval of the report, seconded by Councilmember Yukimura, and unanimously carried.

A report (No. CR-BF 2015-30) submitted by the Budget & Finance Committee, recommending that the following be Received for the Record:

"BF 2015-05 Communication (08/31/2015) from Council Vice Chair Kagawa, requesting the presence of the Director of Finance and the Housing Director, to discuss the County's Long-Term Affordable Rental Tax Limit, including, but not limited to discussion of the following:

- An overview of the Department of Housing and Urban Development's median household income and affordable rental rates;
- How affordable rental rates and median household income are calculated;
- The potential impact to the County should the current tax limit be increased from eighty percent (80%) to one hundred percent (100%); and
- All other related information to the Long-Term Affordable Rental Tax Limit,"

Councilmember Kualī'i moved for approval of the report, seconded by Councilmember Yukimura, and unanimously carried.

A report (No. CR-BF 2015-31) submitted by the Budget & Finance Committee, recommending that the following be Received for the Record:

"Bill No. 2595 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2015-796, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2015 THROUGH JUNE 30, 2016, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Kauai Police Department, Legal Analyst – \$124,165*),"

Councilmember Kualī'i moved for approval of the report, seconded by Councilmember Yukimura.

Ms. Fountain-Tanigawa: Chair, we have one (1) registered speaker for CR-BF 2015-31. This Committee Report is about the Legal Analyst for the Kauai Police Department (KPD). The registered speaker is Ken Taylor.

Council Chair Rapozo: Okay. With no objection, I will suspend the rules. Mr. Taylor.

There being no objections, the rules were suspended.

Mr. Taylor: Council Chair, I wanted to speak on Bill No. 2595 and I do not know if it is going to come up this morning.

Council Chair Rapozo: Yes, it is going to come up. This is the Committee Report, so this would be to basically discuss what happened at the last meeting. If you wanted to testify on the Bill, we can have you come up when the Bill comes up.

Mr. Taylor: Will the Bill come up this morning?

Council Chair Rapozo: Yes it will.

Mr. Taylor: I will wait.

Council Chair Rapozo: Thank you. With that, I will call the meeting back to order. There is a motion to approve.

There being no objections, the meeting was called back to order, and proceeded as follows:

The motion for approval of the reports were then put, and unanimously carried.

### BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2597) – A BILL FOR AN ORDINANCE TO AMEND ORDINANCE NO. B-2015-796, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2015 THROUGH JUNE 30, 2016, BY REVISING THE AMOUNTS ESTIMATED IN THE HIGHWAY FUND (*Puhi Road 20% County Match (Operating Budget)* - \$268,000.00): Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2597) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for October 21, 2015, and referred to the Budget & Finance Committee, seconded by Councilmember Yukimura, and carried by the following vote:

|                       |   |             |
|-----------------------|---|-------------|
| FOR PASSAGE:          | Chock, Hooser, Kagawa, Kaneshiro, Kualii,<br>Yukimura, Rapozo | TOTAL – 7*, |
| AGAINST PASSAGE:      | None  | TOTAL – 0,  |
| EXCUSED & NOT VOTING: | None  | TOTAL – 0,  |
| RECUSED & NOT VOTING: | None  | TOTAL – 0.  |

*(\*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kauai, Councilmember Chock was noted as silent (not present), but shall be recorded as an affirmative for the motion.)*

*(Councilmember Chock was noted as present.)*

Proposed Draft Bill (No. 2598) – A BILL FOR AN ORDINANCE TO AMEND ORDINANCE NO. B-2015-797, AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2015 THROUGH JUNE 30, 2016, BY REVISING THE AMOUNTS ESTIMATED IN THE HIGHWAY FUND CIP (*Puhi Road 20% County Match (CIP Budget)* - \$268,000.00): Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2598) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for October 21, 2015, and referred to the Budget & Finance Committee, seconded by Councilmember Yukimura, and carried by the following vote:

|                       |   |            |
|-----------------------|---|------------|
| FOR PASSAGE:          | Chock, Hooser, Kagawa, Kaneshiro, Kualii,<br>Yukimura, Rapozo | TOTAL – 7, |
| AGAINST PASSAGE:      | None  | TOTAL – 0, |
| EXCUSED & NOT VOTING: | None  | TOTAL – 0, |
| RECUSED & NOT VOTING: | None  | TOTAL – 0. |

BILLS FOR SECOND READING:

Bill No. 2593 – A BILL FOR AN ORDINANCE TO AMEND ORDINANCE NO. B-2015-796, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2015 THROUGH JUNE 30, 2016, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND, HIGHWAY FUND, LIQUOR FUND, SOLID WASTE FUND, SEWER FUND, AND GOLF FUND (*Units 2, 3, and 4 Collective Bargaining Increases – \$912,369*): Councilmember Chock moved for adoption of Bill No. 2593 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Yukimura.

Council Chair Rapozo: Discussion? Public testimony? This is the Collective Bargaining increases. I will suspend the rules with no objections.

There being no objections, the rules were suspended.

Mr. Bernabe: Matt Bernabe for the record. Obviously, I do not really have anything to protest against because as businesses go, we have to do it. What I would like to use this opportunity to do is to express as a public member how confusing it is when we hear the term “collective bargaining.” As a County, how can we make it easier for people like me or other people to understand and be able to have the education on the process and “ins and outs” so that we can press our State Representatives? From the little that I understand, we are completely left out of this process because we are a small, little county that is not really close to the executive branch of the State, that really O’ahu’s County dictates what is going on for the rest of the counties. I may be wrong in that statement, but that is how ignorant I am on the subject. I would like to ask you to somehow put an attachment on the website, flyers, or some mechanism that we can become a participant in collective bargaining as a sense of dictating what is best for our County. Thank you very much.

Council Chair Rapozo: Thank you, Mr. Bernabe. Any questions? If not, the meeting is called back to order. Councilmember Kagawa.

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Kagawa: I just wanted to clarify a little for Matt. The State holds most of the votes for the collective bargaining decisions that they make and it is funny how the State has a lot of Hawai’i Government Employees Association (HGEA) employees and a lot of United Public Workers (UPW) employees, and so does the County. They also have Hawai’i State Teachers Association (HSTA), which is large as well. It seems that the State somehow, when they vote on the collective bargaining increases for those unions that they have a lot of control over and a lot of liability for in increases those raises, they are very tight with those raises. I will just point out one fact that the teachers are paid forty-eight (48) in the nation. When it comes to negotiating for the police and fire, which the State does not pay any police and fire salaries, they are very generous with those

salaries. In fact, I think they gave them four percent (4%) increases over four (4) years, plus the additional for the code of conduct or what have you, so it is another four percent (4%). It is funny how they are real generous with that and now the police and fire are at twelve percent (12%) in the nation. It is funny how they value the police and fire because they do not have to pay it. That is why I think we need that Senate President or what have you to step in and say, "Hey, when it comes to police and fire, let us give the counties more votes," because we actually have to pay for those increases and we have to pull it from our public in increasing real property taxes or what have you. Since we foot the bill for those increases, we are the ones that should be deciding the police and fire. I know I am getting off track on the agenda, but I will end it there. I just wanted to clarify for you that the State does have the say, but when it comes to their own, they are very tight because they have to foot the bill. When it comes to the counties, it seems like they are very generous and that does not make sense at all. Thank you, Chair.

Council Chair Rapozo: Any other discussion? I will say that the counties do participate and we do a bad job in the negotiations, but Maui County is going to be proposing a bill for the Legislature for the Hawai'i State Association of Counties (HSAC) Package that will provide more input from the counties, so we will be seeing that on the agenda in the near future, that the counties itself will be able to participate more in collective bargaining besides the one (1) vote. With that, can I get a roll call, please?

The motion adoption of Bill No. 2593 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried the following vote:

|                       |   |            |
|-----------------------|---|------------|
| FOR ADOPTION:         | Chock, Hooser, Kagawa, Kaneshiro, Kualii,<br>Yukimura, Rapozo | TOTAL - 7, |
| AGAINST ADOPTION:     | None  | TOTAL - 0, |
| EXCUSED & NOT VOTING: | None  | TOTAL - 0, |
| RECUSED & NOT VOTING: | None  | TOTAL - 0. |

Bill No. 2594 - A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2015-796, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2015 THROUGH JUNE 30, 2016, BY REVISING SECTION 19 OF THE OPERATING BUDGET PROVISOS: Councilmember Yukimura moved for adoption of Bill No. 2594 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Kualii.

Councilmember Kualii: Chair, I have an amendment. I have to apologize because I missed this during the Committee Meeting, but I did find a few typographical errors and I brought it to staff's attention and they have included it in this amendment. I also discovered that in our reports prior, we were receiving the reports quarterly, and in the last budget session...and we passed this proviso to request a lot more detail so that I can track vacancies, new hires, transfer, reallocations, and what have you. The Administration responded that they had concerns about some of that detail revealing confidential information. I actually still disagree, but accept their argument and it has been received by the Council. However, the reports were quarterly. I was asking for them to continue it being quarterly and with more detail. In this last amendment, it is being reduced to just twice a month...

Council Chair Rapozo:

Twice a year.

Councilmember Kualii: Yes, twice a year. When I met with the Administration, I agreed to perhaps lowering it to three (3) times a year. In my amendment, I am putting it back to not quarterly four (4) times a year, but three (3) times a year. With the dates of October 15, January 15, and March 15, being periods where it makes most sense to have that information so we can do the analysis and be prepared for the budget. In their cover letter, they talked about the two (2) concerns they had like insuring the privacy rights of applicants and employees, but also about providing the information during the appropriate times of the fiscal year when the information is most useful. So I am saying from my standpoint as a Councilmember when it is most useful, so I am asking that the Council support my amendment and add that October 15, January 15, and March 15. That is the amendment.

Council Chair Rapozo: Thank you. Councilmember Yukimura.

Councilmember Yukimura: Have we heard from the Administration about these proposed amendments?

Council Chair Rapozo: I have not. Did you want to have them here?

Councilmember Yukimura: Yes.

Council Chair Rapozo: Can we get somebody from the Administration? I just saw Nadine walk out right when her Bill was here.

Councilmember Kualii: I would add that we were having it quarterly last year and during the budget, what was approved was more detail, which they had problems with the "more detail," but in the midst of making the change about not providing that additional detail, they also reduced it to only twice a year, instead of four (4) times a year. Their argument was, "That is all we need." I am saying, "That is not all I need and this is what I want. Three (3) times a year, not four (4) times a year." I have already given on the detail level. If you look, there is a lot of what you would probably agree is useful detail as far as position posting status, application status, interview selection status, and interview schedule status. This is because we have seen the failure of Human Resources (HR) to fill vacant positions, and then to have budget lapses or surpluses because the position sat vacant, and then being able to move that money around and spend it in other ways; in one way, to tighten the budget with labor as our most expensive item...labor costs are eighty percent (80%) of this County budget or some huge, astronomical figure like that. We need to be on top of that more and part of being on top of it is getting the information so that we can question what is going on with filling the vacancies, when new hires or new positions are created, and all of that. You have seen some of the information in the past and it is very useful and I have used it a lot during the budget process.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: I just wanted to second his motion. Can you make your motion?

Councilmember Kualii moved to amend Bill No. 2594 as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1, seconded by Councilmember Kagawa.



Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: So the substantive amendment is on the bottom of page 2. There are no pages on this, but page 2, and on page 3 under "b. effective date of new hires," is that substantive or is that a typographical error?

Councilmember Kualii: That is a typographical error.

Councilmember Yukimura: Okay.

Councilmember Kualii: They had "vacant."

Councilmember Yukimura: The only substantive thing is in Section 19.

Councilmember Kualii: Exactly.

Councilmember Yukimura: The Bill itself, excuse my ignorance, was initiated by the Administration?

Councilmember Kualii: That is correct. The proviso was passed during the budget. It was passed with the inclusion of the additional detail. The Administration objected to that additional detail, stating that it might have a confidential issue in it. In the cover letter, they state it and that was all removed.

Councilmember Yukimura: Right, so the details that are now being required are the ones under the new Section 19 that straddle pages 2 and 3.

Councilmember Kualii: Yes, which were part of the old proviso as well.

Councilmember Yukimura: That has, except for the new amendment, been okay by the Administration.

Councilmember Kualii: Yes and I would guess that the date is as well because that is what we talked about in the past.

Councilmember Yukimura: Yes.

Council Chair Rapozo: The Administration is here. I can suspend the rules if you want. Let me just say this before we suspend the rules. We saw Councilmember Kualii's work with the HR or employment vacancies during the budget. We saw the intense work. He came up with the proviso so that it would make his work a lot easier. Rather than sending one hundred (100) communications across the street during the budget, if we had been provided the information, he did not have to do that. It is very reasonable. Whether we put personal, private, or medical information in a bill or not, that is all protected information, regardless of what is there, but that was taken out. The quarterly reports were done before. This one, for some reason, I think because the Administration feels that Councilmember Kualii only needs this information...when was it? March and October?

Councilmember Kualii: December and March.

Council Chair Rapozo: Councilmember Kualii said, "No, I need the information in January, March, and October." That is his call. That is not the

Administration's call. I really do not care what the Administration thinks Councilmember Kuali'i needs to do his work. Only he knows what he needs to do his work. Regardless of what they said, "No, we do not believe that." You have to understand that we are a separate department or division; a separate branch. If we need it three (3) times a year, so be it. They need to comply. Councilmember Kagawa.

Councilmember Kagawa: I would agree, especially if they already have it in the computer. I would think that is something that is already in there that as a person is hired, it would come off the list and as a new position goes on, it would be added to the list. Basically, I would think that it is not a lot of work what he is asking for. It should already be in the system and if it is not in the system already, then I would be kind of concerned. Thank you.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Chair, I understand what is being said on the floor; however, I think when we want to build trust and have good relationships with another branch of government, we just want to extend to them the courtesy of knowing how they might be impacted because we do not always know how they will be impacted.

Council Chair Rapozo: I will suspend the rules with no objections. Nadine, let us build some trust.

There being no objections, the rules were suspended.

NADINE K. NAKAMURA, Managing Director: Good morning. Nadine Nakamura, Managing Director.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Thank you for being here. This is an amendment, as you know, that was just put on the floor and it adds the number of dates for providing this information to the Council. We just want to know what the Administration's position is on it and whether you have concerns or logistical issues with it.

Ms. Nakamura: Well, I was just handed this amendment as I walked through the door about three (3) minutes ago, so I have not had a chance to discuss it with the department that would be impacted by this reporting. We, I believe, during the budget discussion had agreed upon two (2) dates, at the end of the year and one that coincides with the budget, so it would be two (2) times of the year. It is a lot of work to create the report and I would like to be able to discuss it with the department involved, but we were going to introduce this proviso during the budget period, the original proposal, but we were asked by staff to hold off on it because of the processing concerns. So we held off at the request of Council staff and reintroduced it following the budget per our agreement, so we thought that that was the understanding with your staff and based on the budget discussions. I know we were following through on that, but I am sorry because I just saw this.

Councilmember Yukimura: We can either defer this matter or if you can talk to your staff between now and the end of the meeting...

Ms. Nakamura: I just left my cell phone at the office because the meeting is moving so quickly, but I can borrow a phone and make a call and get back to you. It can be done.

Council Chair Rapozo: Well, we have one more item today and the Executive Session, so let us just move this. Let me just remind everybody that we had the discussions during the budget. It was at three (3) and you made your case that you believe that the Council only needed it twice a year...

Ms. Nakamura: I thought it was at four (4)...

Council Chair Rapozo: I mean four (4), and then we went down to two (2).

Ms. Nakamura: That is correct. I believe that is where we left off the discussion with that agreement, and then the request from your staff to put off the actual reintroduction until after the budget...

Council Chair Rapozo: Yes, just because of logistics.

Ms. Nakamura: Because of processing.

Council Chair Rapozo: Right. So we will move this to the end of the agenda and that will give you some time to go talk to whoever you need to talk to. At the end of the day, it is one more report. We will see what your department says. Who would that be? Finance? HR?

Ms. Nakamura: HR.

Council Chair Rapozo: Okay. Thank you. Any other public testimony? If not, I will call the meeting back to order. Let us move this to the end of the agenda. We will take this up after the last bill. At this time, we will take a caption break now so that we do not have to break in forty (40) minutes. Let us take a ten (10) minute caption break. We will be back at ten o'clock.

There being no objections, the meeting was called back to order, and proceeded as follows:

There being no objections, the meeting recessed at 9:49 a.m.

The meeting reconvened at 10:00 a.m., and proceeded as follows:

Council Chair Rapozo: The meeting is called back to order. Next item, please.

Ms. Fountain-Tanigawa: The next item is on page 4.

Bill No. 2595 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2015-796, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2015 THROUGH JUNE 30, 2016, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Kauai Police Department, Legal Analyst – \$124,165*): Councilmember Kagawa moved for adoption of Bill No. 2595, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Kualii.

Council Chair Rapozo: Discussion? Councilmember Yukimura.

Councilmember Yukimura: I believe the appropriate motion would be to receive so that we can have another arrangement.

Council Chair Rapozo: No, the appropriate motion was what was made. If you want to vote against it, then you vote against it. What appropriate motion are you suggesting?

Councilmember Yukimura: Oh, I thought there is a bill that is going to be introduced.

Council Chair Rapozo: That is not on the agenda. The Police Department submitted testimony and it includes a proposed bill that the Mayor is, I guess, going to submit, but that is not on the agenda today, so we are not discussing it.

Councilmember Yukimura: But it is an alternative to this, so it is relevant.

Council Chair Rapozo: Right, so if you want to go for that alternative, provided that makes the agenda, then you vote no. The appropriate maybe in your eyes is to receive, but I think the motion on the floor is to approve.

Councilmember Yukimura: Well, I thought we would go with something that the Administration and the Police Department agree on.

Council Chair Rapozo: I would agree, Councilmember Yukimura, but when the Police Department is confronted and said, "You either get this or you get nothing," I do not consider that a good negotiation. Anyway, that is not on the agenda, so we are not going to discuss that today. We are discussing the Legal Analyst for KPD. If you do not want to do it, then you vote no. I do not want to spend a lot of time on this today because we had a lot of discussion. I have asked Councilmember Kualii to introduce an amendment that will reflect real-time budget because of the short year...it is not a full year, but I do not think it is going to have an impact because I can count. Let me just say that, and I said this last week, but the Chief came and he asked and he made some compelling arguments of why he needed a legal analyst; the biggest reason being that there were seven hundred (700) cases that were dismissed or declined since 2013 and he needed some help. The Mayor does not want that. The Mayor wants his own attorney in the County Attorney's Office. That is his prerogative. My point is that if we pass this today, the Mayor can take that position and put him in the County Attorney's Office like he did in 2008. He can do that or he can submit a new bill and go through the first reading, public hearing, committee, and wait another couple of months to move the ball. If the Mayor is serious about helping the Police, support this Bill today and he can make the move with his own authority and do what he wants like he did in 2008. But to block this from moving forward, I think is irresponsible. It is a sign saying, "Police, we really do not support you." This is where the Council can make a stand and say, "Hey, Mayor, we are not going to play these games anymore. These games need to stop. This little beef between you two (2) need to stop." We have given the position number; the Mayor can do what he wants. He did it in 2008 and he will do it again. All I want is for them to get the help they are asking for. Councilmember Yukimura.

Councilmember Yukimura: I have some discussion, but I would like to hear public testimony if there is any first.

Council Chair Rapozo:

Councilmember Kagawa.

Councilmember Kagawa: I just wanted to say that in my view the “political football” or whatever we called it is all hypothetical, but I think this Bill already has helped it because at least now, for the first time in I do not know how much years, the Administration and the Police have engaged in some discussions about this position. Regardless of whether it fails or does not fail, I would thank you, Chair, because I think we are at a better place. At least we have both of them talking. It is the Mayor’s prerogative because of the structure of our Charter that he is above the Police Department and if he sees it one way and recommends it one way, it is his prerogative to try and have that discussion with the Police Chief and the department heads to reach a place of agreement. Having said that, for us, the decision is merely, do we think that our Police Department should try and achieve that place of accreditation, which they are saying that they want to achieve? We pay them well, so now should that department be accredited? Is having the Chief oversee, manage, and hire the person who he thinks can achieve that place a better means of achieving that, I think, is our call because we are appropriating the money, but yet it would be up to the Administration at the end. They can leave it unfilled or not. We are going to create a new “political football,” but it is our job to vote our conscious as far as how we see what best fits the needs of the Police Department in trying to achieve accreditation and trying to achieve goals of trying to reduce self-inflicted lawsuits or what have you when come with the changing of times as well. Who is better at managing this legal person, county attorney, or whatever it is going to be called? I do not think it is an easy decision. Certainly, I appreciate your efforts because at least they have achieved some means of working together now and I am glad for that. Thank you.

Council Chair Rapozo: I will just say that the first time somebody messes with you, shame on you. The second time somebody messes with you, shame on me. I would never question, Councilmember Kagawa, your experience in school teaching; I would never question Councilmember Kaneshiro’s position on accounting; Councilmember Chock on his community service and his outreach; Councilmember Kualii on making Hawaiian salt; Councilmember Yukimura on her politics; and Councilmember Hooser in all the things that he has accomplished. I would never do that because I do not have that expertise. I would hope that you folks would rely on my expertise as a law enforcement officer of twelve (12) years, that you would rely on the Police Chief’s expertise when he came up here and begged for the position, and give that some credence versus the Mayor who has no law enforcement experience; the County Attorney with no law enforcement experience. No credence to that. It is just, “No, no, no. I am glad that the Mayor went out and put the ultimatum to the Chief and the Chief agreed.” You know what they say, “Half of something is better than all of nothing.” The Chief is not stupid. We will never override a veto, so the Mayor could veto this Bill if it passes and he gets nothing. I respect the Chief for doing that saying, “Okay, I will come to that agreement, simply because I know we will get somebody. It may not be everything that we want.” We went down this road in 2008. How closer are we to accreditation today than we were in 2008? They have had a County Attorney; they have had three (3) of them at least. They have had gaps in service because they get pulled and they leave. The office sits vacant. The Chief has no authority to hire. Is he going to allow the Chief to sit-in on the selection process? Really? The Chief needs somebody he can hire, trust, direct, and fire. That is what the Chief needs. He does not need a little puppet in there that belongs to someone else. You guys do

not see that. I am telling you that the Police are not like Parks, Planning, or any other department. I am asking you folks to trust my expertise. That is all I am asking. Like I said, if the Mayor is that adamant, then fine, do what he did in 2008; move it to the County Attorney's Office like he did. At least the public knows one thing, that this Council supported the Chief. This Council supported the men and women in blue. We did not just support the Mayor. I think it is time that we show that division. We talked about the separation of powers. I heard that drop before. Let us put that separation in. We are the check and balance. There have been proposals for positions in this County from our end for Transient Vacation Rentals (TVRs) enforcement officers for transportation planners. I have never heard the separation of power issue come up, but for this one, yes, because it is the Chief of Police. Councilmember Hooser.

Councilmember Hooser: I just wanted to speak a little of my *mana'o*. I am not supporting this, but I do not think it is fair to say that a no vote is a vote that does not support the men in blue. I think it is unfair. During the budget process, I supported not filling Housing positions, but that does not mean that I do not support Housing. I have great respect for the men in blue and what they do and have doubt whatsoever that they would use this position and benefit from this, and the County and people would benefit from it. It is a question of timing, budget, and management. I do not see this as a "political game" or "football." I see it as the Mayor wants to manage it his way and the Police Chief wants to manage one way and that is fine. It is a question of management styles and management philosophies. My primary concern is about the budget. The time to deal with these kinds of issues is during the budget. We had it during the budget and we voted it down during the budget. We are operating in a situation now where we do not have enough money. This Council has raised the taxes. We have many financial constraints facing us and I do not believe it is an appropriate time now to add positions and add money to the budget. It does not mean that I do not support the Police, so I would ask that that not be cast upon those of us who are not supporting this measure that is on the table before us today. Thank you.

Council Chair Rapozo: Let me clarify and apologize. Councilmember Hooser made himself perfectly clear last week that it was a fiscal issue and not a substantive issue with the position, so I do apologize for making that blanket statement, and so did Councilmember Chock, who said that first of all primarily a financial issue. Whether this position is in the Police Department or in the County Attorney's Office, it does not matter. It is a fiscal issue; it is going to cost money. I can appreciate and respect any member that votes against this because of a fiscal issue, because I agree to some extent that we have to really watch as we expand the County. Again, this is not a new position. This is a position that the department had. We provided it back in 2008. The Mayor took it, put it in the County Attorney's Office to expand that department, and then with the new Administration under Mauna Kea, he has, and rightfully so, I think he has done an excellent job at the County Attorney's Office during the restructure, but now the department has lost that position. It is no longer there. I am just trying to do what we did in 2008, put it back. If the Mayor wants to move it, then move it. At least let the Council stand by the department. We know, unlike many departments, that the Police Department has a commission, which was to remove politics from that position, so you would not have a police chief that was controlled by the Administration. That is the whole reason why we have a commission overseeing the Police Department. Please consider that and take the politics out of it. We do not have to get into the history with the Chief and the Mayor, because we know there is one. Give the Chief what he wants, what he needs, and what he is

begging for. Councilmember Yukimura, I see you reaching for that microphone. Do you want to say something?

Councilmember Yukimura: I want to say something after the public testimony, if any.

Council Chair Rapozo: Anybody else before we open it up for public testimony?

Councilmember Kagawa: Does that time that I talked count against my minutes?

Council Chair Rapozo: No, we are having a little debate...or what do you call that?

Councilmember Kagawa: I would think that it would, but...

Councilmember Yukimura: Well, were we timing it?

Councilmember Kagawa: We were not timing it?

Councilmember Yukimura: Okay, if not, then I will say something.

Councilmember Kagawa: Sorry guys.

Council Chair Rapozo: Go ahead. Thanks, Councilmember Kagawa.

Councilmember Yukimura: Yes, we need clear rules.

Council Chair Rapozo: We do have clear rules.

Councilmember Yukimura: I take offense at being told that I do not support the Police Department just because I feel that we should stay within the framework of the County Charter and make sure that the legal services are not fragmented, which then to me creates a lot of possibility of politics. I believe that loyalty is not to the Mayor or the Police Chief; it is loyalty to the law and what the law says. Legal opinions do not change when somebody is under somebody, or it should not anyway. I also feel that if we were to trust the Police Department, then they would be an entirely separate department, not accountable to the Mayor or the County Council, but that is not how our Charter is written. It is in fact a civilian throughout the county to the federal levels...we have made the choice that the military or paramilitary organizations are subordinate to or subject to civilian management and control. We try to do that with great respect and deference to expertise, but also to the need for consistent personnel decision making, legal decision making, and so forth. It is part of our Charter structure and I believe that these members here around the table as the County Council, the legislative body, are called to make these decisions on behalf of the whole. One of the things we are agreeing with, and I agree with Vice Chair, that the introduction of this Bill has done one thing that I think everybody agrees...well, not everybody agrees on, but we agree with you, Chair, that there is a need for legal services to the Police Department, and because of that, we want to give some services. The form of it is that people are disagreeing with exactly what form, but that is legitimately our decision here at this end. I do not believe we are or should be accused for not supporting our law enforcement people.

Council Chair Rapozo: Councilmember Chock.

Councilmember Chock: I have a process question. Are we going to have questions as well for the Administration?

Council Chair Rapozo: If you have some, we can bring them up.

Councilmember Chock: Yes, I have a question. It might be Mauna Kea, but I would like to ask the Managing Director also.

Council Chair Rapozo: Well, let me suspend the rules right now with no objections. May you folks come up? Mauna Kea, you may take a seat, too.

There being no objections, the rules were suspended.

MICHAEL M. CONTRADES, Deputy Chief of Police: For the record, Michael Contrades, Kaua'i Police Department.

Councilmember Chock: Good morning, gentlemen. Thank you for being here.

Mr. Contrades: Good morning.

Councilmember Chock: I know we are not here to talk about any proposal that may be forthcoming. I want to be clear because I think for me it might make a determination on how I vote today. That question really is about the distribution of time that we are leaning towards. There has been discussion in the last week about the position being centralized at the County Attorney's Office, but ninety-five percent (95%) of the time being spent within the Police Department. I just want assurances that that is feasible and that it can be done. I am not sure how that is taken care of, so I would like some explanation on how that is managed.

MAUNA KEA TRASK, County Attorney: For the record, Mauna Kea Trask, County Attorney. After last week's Council Meeting, KPD, myself, and the Mayor's Office got together to see how we could find common ground in this issue. We did work on a draft position description that plays out all of these matters.

Council Chair Rapozo: Mauna Kea, we are not going to discuss that today. That Bill is not on the agenda. It is not. We are talking about the Legal Analyst today. I see this here with the job description, but that is not on the agenda. I think if the public wanted to discuss that position, then it should have been posted as such, but right now all they know of is the Legal Analyst for KPD, and that is what I said in the beginning.

Councilmember Yukimura: Point of order, Chair.

Council Chair Rapozo: What is the rule?

Councilmember Yukimura: The rule is that anything relevant can be spoken about. I believe this as an alternative, the Legal Analyst, and the new arrangement that is being proposed by the Administration, is a very relevant alternative to what we are looking at, so I think it should be allowed to be discussed.



Mr. Trask: I am just trying to answer Councilmember Chock's questions.

Council Chair Rapozo: Well, you are the County Attorney. It is within the Sunshine Law? Do not look at Councilmember Yukimura. I am asking the question.

Mr. Trask: We talked extensively about it last time.

Council Chair Rapozo: We talked about...

Mr. Trask: I am not trying to make waves. I am just trying to answer Councilmember Chock's question.

Council Chair Rapozo: Like I said, you are our adviser on the Sunshine Law, so if you say it is okay, then I am not going to argue.

Councilmember Chock: I do not want to have to go into this as well. That is really not my intent here. What I am asking for is how it is if there is a separation...if it was housed under your office, how will that be determined in terms of how many hours? It is already tracked in terms of how attorneys' hours are spent? Is there a mechanism that is already in place for that to occur so that we can ensure that whatever agreement we are moving towards can even be done?

Mr. Trask: In one respect, physically we have no availability of office space in the County Attorney's Office. So part of the agreement is that they would have to provide office space to the position with the ability to lock the door to keep confidential documents. Ninety-five percent (95%) would be KPD and the only reason why the five percent (5%) was reserved was, like Councilmember Yukimura stated, a government attorney specifically, and if you look at Hawai'i Rules of Professional Conduct, I believe it is Rule 1.13 that talks about a government attorney owing a higher duty to the County as a whole, largely because of Hawai'i Revised Statutes (HRS) Section 127(a), which is the emergency management proclamation section. Everyone becomes an employee of the mayor when a declaration of emergency comes down, like a hurricane situation, natural disaster, terrorist, et cetera. Also, too, KPD and the County Attorney's Office agreed that there is...we have deputies' meetings twice monthly, so they would come to deputy's meeting and maintain a relationship with the office in order so they feel comfortable and utilize the resources that we would provide and we can have discussions about things, et cetera. So it would be a 95/5 split. They have to provide office space over there, both to accommodate their requests and to accommodate the attorney.

Councilmember Chock: Okay.

Council Chair Rapozo: I know that did not answer your question because I did not get it. Councilmember Kualii.

Councilmember Kualii: My question is for KPD. Last week when we heard extensive *mana'o* from KPD, it was clear to me and clear to everyone that you definitely have the workload that justifies the need for a legal analyst in your department with the accreditation and all the other different work. Clearly, the need was overwhelmingly at the level of legal analysts and not at the level of deputy county attorney for legal opinions and that legal opinions would be the one small area that happens not as often as all of this other work that you would continue to

go to the County Attorney for help with. Justification wise, as far as fiscally talking about the expense of this position, you have already shown to us or justified to us the need for a legal analyst, whether it is eighty percent (80%) or ninety percent (90%) of your need. At that level, why should we now approve a twenty thousand dollar (\$20,000) increase for a higher position, which based on all the duties that you need performed like accreditation, analysis, advice, and research. It was all those things, except the word "advice," because of a "legal opinion" or what have you. Do you stand by your justification of what your needs are in the department? You need a legal analyst, not a deputy county attorney. Is that true?

Mr. Contrades: The bottom line is that we need somebody. I think the Chief...

Councilmember Kualii: If a deputy county attorney was made available to do the legal analyst job, you would take it, but you are asking this Council to pay twenty thousand dollars (\$20,000) more for a higher level position to do the legal analyst job. Is that what you are telling me right now?

Mr. Contrades: The Chief said everything he had to say last week.

Councilmember Kualii: That is what I heard. You, the Chief, and the department justified that there was all of this workload and need for a legal analyst and that there was a small part that may require legal opinions that could continue being sought after from the County Attorney. Has that changed?

Mr. Contrades: The bottom line is that we need an attorney in the department. What was discussed numerous times was the pros and cons to each. With the legal analyst, they will be able to do the research necessary to back up their review of everything. As said by the County Attorney, they cannot give us advice and they cannot sign off on the policies. If we had a legal analyst, yes, we could use that person one hundred percent (100%) of the time. There would be a lot of work for that person. We are currently going through about two hundred (200) policies to get our accreditation. My understanding in talking to the County Attorney is, yes, it would be great to have that person to do all the research necessary to back up our policies, but in the end, that still would have to go over to the County Attorney for review and signature, so the legal analyst could not do that aspect of it.

Councilmember Kualii: The last piece?

Mr. Contrades: Yes.

Councilmember Kualii: Thank you.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Chief, if you were to have a deputy county attorney, that person could actually do not only the work of a legal analyst, but it could do the approvals as well.

Mr. Contrades: Yes.

Councilmember Yukimura: You almost have more flexibility with a deputy.

Mr. Contrades: It basically comes down to control. You said "loyalty," but the argument basically comes down to control. Who does that person report to? That is the Chief's prerogative is that the person reports to the Chief of Police; hire, fire, and discipline if necessary. In this particular case, however, in discussing this with the Administration and the County Attorney, essentially this person would be with us for the majority of the time and if there was an issue, that issue would be brought to the County Attorney's attention for a review. Hopefully that never happens, but that is basically what this...

Councilmember Yukimura: Well, if everybody is very professional, it should not.

Mr. Contrades: Correct.

Council Chair Rapozo: But we have seen in the past that that is not the case.

Mr. Contrades: Yes.

Councilmember Yukimura: Actually, the cost of a deputy is not going to be greater than that, which was being asked for a legal analyst, right? I see the attachment.

Mr. Trask: I am kind of confused on the process. I think the Bill originally came in an aggregate of approximately one hundred twenty-four thousand dollars (\$124,000).

Councilmember Yukimura: Correct.

Mr. Trask: Now I saw the most recent one that upped the salary to one hundred thousand dollars (\$100,000) to one hundred ten thousand dollars (\$110,000). I am not sure if that includes benefits or not.

Council Chair Rapozo: Mauna Kea, the money bill was not changed.

Mr. Trask: Okay.

Councilmember Yukimura: But the money bill that has been attached to the proposed deputy is less than the...I am just clarifying...

Council Chair Rapozo: Councilmember Yukimura, you need to clarify accurately. That is not one (1) year of funding. It is partial funding. Please, if you are going to make those statements, make sure that it is accurate. I want the public to know what the truth is.

Councilmember Yukimura: Okay.

Council Chair Rapozo: A deputy county attorney makes more than a legal analyst.

Councilmember Yukimura: Okay.

Mr. Trask: I understand that your Legal Analysts actually have comparable salaries to our Deputies.

Councilmember Yukimura: Yes, I think the Chief was asking for one hundred five thousand dollars (\$105,000) for a salary for the legal analyst.

Council Chair Rapozo: The Chief could ask for two hundred thousand dollars (\$200,000). What is in the money bill is what the money bill is and the money bill was not changed, even with the Chief's request.

Councilmember Yukimura: Okay.

Mr. Trask: Just to add to what Chief Contrades said about "control." All the Deputy County Attorneys are informed that they have an obligation to the County and it is clear in legal ethics. I tell them all, "You represent the client." The issues come up. As you know, the issues are sometimes difficult, especially in Hawai'i. There is not as much guidance in a lot of things as compared to the rest of the country. The rules of conduct are clear that if it is a gray area, there is not much guidance and your supervisor can protect you. If it is black and white and your supervisor is telling you the wrong thing, you even as the supervisee, have a legal obligation to do the right thing and the cases on that are allegiant. They are all told to do that. I do not force the hand of the county attorneys. I told them to do what they have to do. That would not change.

Councilmember Yukimura: Well, one of the differences in the circumstances back then and now is that we have a new County Attorney as well. My other question is after this bulk of the accreditation work is done, to me, you may still have a lot of police work, but I think you are not going to have as much work to do with policies once you do that. Or am I mistaken?

Mr. Contrades: Actually, you would be mistaken because achieving accreditation is the easy part. Maintaining it is difficult. Part of accreditation is going over those policies every year to make the adjustment. We have had a lot of help from the other islands. Hawai'i island has provided us with a lot of their policies, so that has helped us move things along, but we have to tailor it to Kaua'i, and every year you have to review those policies to make sure that they are updated to the current standards and current court decisions. The thing is that that is not the only thing they are responsible for. We have a lot of contracts and if you want, I could send you a list of the contacts that we have to do yearly and review. The work is there. There are a lot of things that has to be run through the County Attorney's Office. Even after achieving accreditation, there will still be work for this attorney to do revising every year the policies and reviewing.

Councilmember Yukimura: Okay. Thank you.

ROBERT GAUSEPOHL, Assistant Chief: Robert Gausepohl for the record. With Nick Courson's help, we were able to save tens, if not hundreds of thousands of dollars in contract negotiation. Much of that was due to having him at the station where we could walk down the hall and say, "Hey Nick, can you take a look at this?" Absent that, since he has been gone, it has been very difficult to do. I think a big part of our strength is the ability to adjust quickly and modify whatever contracts we have. With the attorney there, we are able to do it. Without the attorney there, I do not think we are going to be near as effective.

Councilmember Yukimura: I also think you will be more effective with a deputy county attorney than a legal analyst as well because the person will be able to answer a wider variety of questions.

Mr. Trask: One of the things that comes up that makes KPD unique is that they have a large amount of subpoena duces tecum, which are document subpoenas in both civil and criminal law, as well as in civil law, both for testimony and documents. In a court order, you have to show up. They are served very close to the hearing deadline. It necessitates a motion to quash or some kind of protection for the officer or the record for privacy purposes. That ability to quickly respond to represent the department in the court will be a continuing need regardless.

Councilmember Yukimura: Thank you very much. I appreciate the explanation.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: Thank you, Chair. Does any other county in the State have police departments that are accredited?

Mr. Contrades: Every other department is accredited, except the Kaua'i Police Department.

Councilmember Kagawa: It is three (3) years or five (5) years? Once every how often?

Mr. Contrades: I believe there is a reevaluation every three (3) years.

Councilmember Kagawa: Thank you. Under this Bill...

Council Chair Rapozo: Excuse me, if you folks are going to have a discussion in the back, take it outside.

Councilmember Kagawa: Under this Bill before us, KPD has basically total control of who is going to be recommended for hiring.

Mr. Contrades: Under the current Bill, the Chief has the decision of who gets hired.

Councilmember Kagawa: So you guys will be totally involved in interviewing and recommending who gets hired to the Department of Human Resources?

Mr. Contrades: Yes.

Councilmember Kagawa: Is there a concern that if this Bill does not pass that that control will be lost?

Mr. Contrades: If the other Bill is introduced, my understanding is that we have a say and would be part of the selection process.

Councilmember Kagawa: Thank you.

Council Chair Rapozo: The question is will you be able to pick who you want? I guess that is for Mauna Kea. Will the Chief be able to hire who he wants should the alternative be?

Mr. Trask: Whenever we hire, we go through a process. They will be part of the process. Whoever you want is going to be who the best is.

Council Chair Rapozo: The question is will the Chief be able to hire who he wants?

Mr. Trask: The answer is the Chief will be part of the process...

Council Chair Rapozo: So the answer is no.

Mr. Trask: No, I cannot agree with that.

Council Chair Rapozo: People need to understand that that is important. That is why this was done so that the Chief can hire. Can you imagine if we did not get to choose the two (2) Legal Analysts that we have? "No, we are going to run them through the process at the Administration." That is ridiculous. Councilmember Kagawa.

Councilmember Kagawa: The follow-up to that is so for the Chief, and you are here for the Chief, is there some concern then about having an alternative because part of that control...who knows how much control of that decision will be not in your hands.

Mr. Contrades: As the County Attorney said, the bottom line is that it is his decision and we have input.

Councilmember Kagawa: But the hope is that if this Bill does not pass, then you will have a decision that is made, kind of like a "keep."

Mr. Contrades: Yes.

Councilmember Kagawa: Thank you, Chair.

Council Chair Rapozo: Any other questions? Go ahead.

Councilmember Kualii: There is a part of me that is supposing that we all agree that KPD needs the assistance and the primary reason is for the research, analysis, the work that needs to be done for accreditation, and other things like that. That all could be addressed by the legal analyst. For whatever reason, the Chief and the Mayor have had discussions and it appears that if the Mayor prefers the deputy county attorney option and he has made the Chief understand the "take it or leave it" kind of thing. But from the Council, ultimately, we are making this decision. If you lose the legal analyst position today because you do not have four (4) votes, you will still have the ability to have your deputy county attorney assistance when you need it, like you have now. So you will have that as a minimum, but you will not have all the extra help you need for the workload with accreditation and all that kind of work that does not require a county attorney. What if the Council was to say to you as the Chief, "Take the legal analyst or nothing," because some of us may not be willing to spend twenty thousand dollars (\$20,000) and for some of us it is already hard to spend the ninety thousand dollars (\$90,000), but you have justified the need based on the things that need to be accomplished like accreditation. You may end up with nothing, so what would you say to that as far as your need?

Mr. Contrades: As I stated earlier, we need something. We will take the legal analyst or we will take the deputy county attorney.

Councilmember Kualii: Thank you.

Council Chair Rapozo: I guess I have one question for Mauna Kea. The big issue for this of this whole dialogue, which we have made an issue—I did not see it as an issue, I just thought it was a “no-brainer.” The County Attorney in his initial statement saw it as a “no-brainer,” as a much more efficient way to do things, that changed, but that was in the beginning. Then it all came around this thing about the Charter saying that only the County Attorney’s Office can issue opinions or advice and all of that. Is that pretty much accurate?

Mr. Trask: No.

Council Chair Rapozo: What is accurate?

Mr. Trask: So what is accurate is that first off, I did not want to get put in a position to create division in the County between KPD and the administrative branch of government. I think that this County has suffered through enough division and enough energy has been taken away from doing the actual job that we are here to do for the people and engage in this kind of unnecessary “political drama,” is my position. When I first came up, I wanted to look for...I like to think that I can always create a positive and always find a silver lining, and I will try. At the initial hearing, I said numerous times, I did not have a position description. As one of the members of the public, I believe Ms. Iseri said at the last hearing, that the Legal Analysts at Council do not do legal work. If you look at their position descriptions, they provide a lot of assistance, but they do not do legal work. When I saw the position description from 2008 for the first time, I saw a lot of legal work, and so did the Chief. I believe that is why the Chief said on record that he is willing to revisit certain parts of it. I have learned. I try to stay as diplomatic and judicious as possible, but I may have come across as saying too much, irrespective to the fact that I stated that I had no opposition to the idea and that I will try to find the best thing. Nonetheless, I thought and still think, given what they want and the job that needs to be done, a deputy county attorney gets the job done versus a legal analyst. There will still be redundancies. The contracts will still need to be reviewed, policies will still need to be signed off on, they will not be able to go to court for subpoenas, and all these kinds of things. I am looking for an opportunity for unity and an opportunity to move forward and provide this department with what we need, acknowledging the fact that the rest of the County, who also has very significant legal needs, probably will not be in a position to make such a request. A deputy for them is essentially more deputy time for everyone. I think that in my discussion with KPD and the Mayor’s Office, the Mayor is not swinging a heavy hand saying “this or nothing.” He is genuinely looking for compromise and I think that it was good to witness them coming to that. That is my position in general.

Council Chair Rapozo: Where does that leave us with our Legal Analysts, I guess, is my concern.

Mr. Trask: I work very well with them and in my experience they do not provide legal advice. We talk all the time and they are very good attorneys...

Council Chair Rapozo: But they do, Mauna Kea. They do.

Mr. Trask: Well, not to my knowledge they do.

Council Chair Rapozo: I am telling you now that they do, so what does that do? Does that mean that we cannot ask them to interpret a law? Does that mean I cannot go up and say, "Christiane, can you take a look at this 92(f) and interpret what that means?" Does that mean I cannot do that? What do we do? Do we get rid of our Legal Analysts?

Mr. Trask: No, everyone can read the law and everyone should read the law. If it is clear, it is clear. If you need a legal opinion, I get asked. I speak with them when I get legal opinion requests.

Council Chair Rapozo: Right, and that is how it is supposed to work and I think that is what the Chief was saying at the last meeting. He said, "If we need to change the word in the description, let us do that." Did your office meet with the Chief and say, "How can we adjust the legal analyst position so we can make it work?"

Mr. Trask: Yes.

Council Chair Rapozo: Nobody did that.

Mr. Trask: I did.

Council Chair Rapozo: No, you discussed, "How can we do the deputy county attorney position?"

Mr. Trask: No, we talked about both at KPD.

Council Chair Rapozo: So why are we here today not discussing an amendment to the description so that the legal analyst position could go through? No, we are here talking about taking it away from the department and putting it in the County Attorney's Office. I think that is where I am concerned.

Mr. Trask: Again, I think it comes down to a point that was made earlier, "What is best to achieve what KPD wants?" I think that is what best achieves what they want.

Council Chair Rapozo: Well, we heard what KPD wants and we heard what KPD justified. We heard that. It is not what the Mayor wants. Unfortunately, the Mayor has that authority. He can be the bully on the block and say, "Hey, you either get this or nothing." What does the Chief say? "I will take nothing because I am a man of principle." No, he has to say what he has to say, "Something is better than nothing." I commend him for that. I think Mr. Bernabe said it best last week, but I am not going to repeat what he said. Anymore questions for any of these three (3) gentlemen? If not, thank you. Who is the first speaker?

Ms. Fountain-Tanigawa: The first speaker is Glenn Mickens, followed by Ken Taylor.

Mr. Mickens: You have a copy of my testimony. Let me read it for the viewing public: "Chief Perry and his fine officers have been given the



job of protecting the safety of the people on Kaua'i. They put their lives on the line every day, even stopping a vehicle for speeding or an expired license. In our Chief's wisdom of thirty-five (35) years of service or maybe more, he has requested a full-time legal analyst to increase the efficiency of protecting our citizens. Former police officer, now Council Chair, Mel Rapozo has introduced Bill No. 2595, asking that this Bill be passed knowing from past experience that this position is badly needed. Since this County has spent hundreds of thousands of dollars or more over twenty-three (23) on a leaky gym roof with no resolution, squandered millions of dollars on bridges that could have been built for ten (10) times less, (the Olohena and Kilauea Bridge), and spent millions of dollars on materials for our roads that we were not getting with no investigation. How can we possibly be squawking at one hundred twenty-four thousand dollars (\$124,000) for a position that the Chief says he needs? I am appreciative of the budget that Councilmember Gary Hooser is saying, that we should be careful of how we spend our funds. We do not even investigate why this multiuse path is costing a horrendous five million two hundred thousand dollars (\$5,200,000) per mile and more, but tell our Chief that we do not need or cannot afford a critical position that he says he needs. Hopefully you Councilmembers who oppose this Bill will reconsider its needs and vote for it. In the Chief's wisdom, I cannot see that he is asking for anything unreasonable. As Councilmember Hooser said again, I think his primary concern is the budget, which I think we all should be looking at the budget for anything you pass, but the things I have cited here for millions and millions of dollars...we do not even look at these things, yet we are trying to take a one hundred twenty-four thousand dollar (\$124,000) position that is for the safety of the citizens on Kaua'i." Thank you very much, Mel.

Council Chair Rapozo:

Thank you. Next speaker.

Ms. Fountain-Tanigawa:  
Matt Bernabe.

The next speaker is Ken Taylor, followed by

Mr. Taylor: Chair and Members of the Council, my name is Ken Taylor. I am speaking in support of Bill No. 2595. I find it really bizarre that any of you can say you support the Police Department, but you will not support Bill No. 2595. When these gentlemen from the police department put their uniform on in the morning and go to work, they are basically writing a blank check on their lives to protect all of us. I think it is just really sad that some of you can sit here and say that you are in support of the police, but you cannot support this issue. The record is clear, as I understand it, that since 2013, about one thousand seven hundred (1,700) cases have been dismissed. I think it is important that we have somebody at the police department that helps get these reports and things in proper order so that when they go to court, they will be supported. How would you like to go to work and put your life on the line, and then see your case down the road dismissed because of some little technicality that could have been solved by having this individual on the staff? I think it is time for you folks to wake up and realize how important the police department is for the community. It is absolutely ridiculous for you to think that it is okay for them to go out and put their life on the line every day for all of us, and then you will not support them in getting these things taken care of. One thousand seven hundred (1,700) cases in less than two (2) years have been dismissed. That is the information I have. If I am wrong, show me. It is time that you wake up. These people put their lives on the line for all of us. Are you awake yet? This is a serious issue. Thank you.

Council Chair Rapozo:

Next speaker.

Ms. Fountain-Tanigawa:

The next speaker is Matt Bernabe.

Mr. Bernabe:

Matt Bernabe for the record. First of all, I would like to start off with the financial aspect of this. The amount of money spent on these one thousand seven (1,700) cases that have not been prosecuted for whatever reason, that is money wasted that we could have prevented some of these people. Let me throw some numbers out there: of that one thousand seven hundred (1,700), that is only one thousand four hundred (1,400) suspects. So that means there are repeats out there. What I want to point out to you is that strategies and all of these things that pop up in the police's everyday world, whether it is homeland security or crime trends in their local neighborhoods. My mom was one of the victims, and there are many because social media allows us to network faster than we used to in the olden days, and my mom's Hawaiian heirloom bracelets were all robbed. They were targeted by somebody who was in the system. How do I have an assurance that the County Deputy, that by the way for six (6) years, is supposed to already be there giving the police its advice and advising them on how to address issues, which this would be one issue at this point because many of my mom and the other influential voters who got robbed...they are voters...this is your constituents—they were all robbed; the same method, the same way. There was no plan of action. Even the police that showed up to take the reports were frustrated because there was no galvanizing action. Why? Because the County Attorney that was supposed to be filling the gap was off doing personal business or not even there at all. We need this position so that due process can take place on all levels, even if the County Attorney has to overview what the Chief sends. I think that is a great thing to have the legal analyst and the Chief create what they want, and then have it checked against the attorney as it would be due process. So I support this position one hundred percent (100%). It is not a slash at the Mayor. I do not know any of the personal *pilikia* that they have. What I am looking at is all new to me. From a regular civilian person who pays taxes, owns a home, and who is engaged in the everyday protection of these guys, we need the legal analyst. Maybe we do not need them to write laws, but we need them to help dictate what is going on in the mentality of our police department. I see the light, so I will come back, but even if it goes to a deputy county attorney, there better be some requirements, because I read it and I did not see it in there, that there is a criminal justice background and not some liability background or some other background in law that is filling the gap. This better be specific. I will be back.

Council Chair Rapozo:

Thank you, Matt. Anyone else wishing to speak a first time?

Mr. Rosa:

For the record, Joe Rosa. Sitting back here and listening last week and this week, it all boils down to dollars and cents. It is not the position. I think the position is duly needed. Basically, I say this and it can be affordable. Just take the two (2) top executives in our departments of fifty-three (53) department heads; the top two (2) alone a month get fifteen thousand dollar (\$15,000) raises, so if they cut some money from those fifty-three (53) cabinet positions, they can have another position because those fifty-three (53) members in a cabinet...they were more than what the union contractors was getting. If you go back and check your figures on the budget on what the unions were going to give their employees and what the cabinet was going to give their employees, the cabinet members exceeded the union of what they were going to give their employees. Like I said, the top two (2) positions, I remembered, was fifteen thousand dollars (\$15,000). In a year's time, that is about one hundred eighty thousand dollars (\$180,000), if I am right in my calculations. So it is a matter of money that is seeking or starting to stop the position from what I heard right out here this

morning. Two (2) Councilmembers emphasized that it was money. It is not the position that they do not want. It is to seek the money to provide that position. Like I say, they talk about tightening the belt. Well, it is about time that they start tightening the belt. I always stress that you cut from the top down. The lower people make the department or the company. It is not the "top dogs." Sometimes, the top people have to sacrifice that. It is for the betterment of the police department. I think that we should have this position because there are too many "has-beens" out there running free because of the lack of information that they see that they need that investigation, which they are not having. So it is about time that they do and get somebody that will do the work and speed up the prosecution of people that are running around and committing crimes. Thank you.

Council Chair Rapozo:  
speak for the first time?

Thank you, Joe. Anyone else wishing to

Ms. Nakamura: Nadine Nakamura, Managing Director. Just on behalf of the Mayor, I wanted to thank you for having this conversation. At your last Committee Meeting on September 9, some of the Councilmembers asked the Administration to work with KPD to find a way to meet their legal needs. We have made a sincere effort to best manage our County operations through centralization over the years, whether it is the media, Public Information Officer (PIO) being centralized within the Office of the Mayor, Human Resources being centralized, pulling payroll out of finance into HR for better centralization, and then legal services. This is just a consistent management philosophy that the Mayor has brought to this job and his approach to managing the County operations, really because we believe this is the best way to serve the public. When we met with KPD and the County Attorney's Office, we arrived to certain agreements. Everyone made concessions, but physically locating the employee at KPD, making sure the candidate goes through a detailed background check that KPD was willing to pay for, KPD participating in the hiring process, and the employee spending ninety-five percent (95%) of his or her time at KPD. These were all agreements that everyone was agreeable to with the deputy county attorney position. I just wanted to say that we were very pleased with the spirit of cooperation and compromise from all parties and we hope that we will not go into what we have submitted to the Council as an alternative, but just wanted to keep it at that.

Council Chair Rapozo: Thank you. Anyone else wishing to testify?  
If not, for the second time? Mr. Taylor, and then Mr. Bernabe.

Mr. Taylor: Chair and Members of the Council, my name is Ken Taylor, again supporting Bill No. 2595. I am adamantly opposed to this amendment. In the last few years, it became very clear to us that the County Attorney's Office does not always represent the taxpayers' best interest. It was made very clear, especially in the gas gate activity where the County Attorney stepped up to represent the Mayor rather than the taxpayers. I think it is very foolish to move forward with this amendment and stay with the original Bill No. 2595. As I said earlier, the police department writes a blank check on their lives every day they come to work, never knowing what to expect. After they have an encounter, to find that it is not being prosecuted because of some little technicality, and I think that is the same and this would solve the problem or at least in many cases solve the problem and there would be no political agenda in this person's daily activities. I think it is only fair to move forward. I would also just say that under a county management style of government, this would be an issue because it would be looked at and understood the importance of not having one thousand seven (1,700) cases dismissed. That is sinful. For any of you to sit here

and think that you can deny that is a serious problem. Somebody is dropping the ball and we need to do better. The police officers deserve better from all of us and you have the opportunity today to resolve the problem, so I hope you move forward with it. Thank you.

Council Chair Rapozo:

Thank you. Anyone else? Mr. Bernabe.

Mr. Bernabe:

Matt Bernabe for the record. To come to this common ground from the point of origin from what I have learned just listening from the last two (2) meetings, it should have not taken six (6) years and the exposure to the public of the history of these six (6) years to get the common ground to even occur. Now with that said, I agree with Council Chair Rapozo when of course the Chief is going to meet you halfway or take what you are offering at this point because that is how real the position needs to be fit. I do not think it is fair to say that we negotiated and all terms were met on good faith because it seems that it is a little hijacked. I just want to point out a couple of things. I personally do not like the part that says "participation." I would like that to be a little bit more on the Chief's side and let him have discretion. If I am using the words wrong correct me, but I think I am actually on the money with these usages. The other thing is that I did not see a contract stating...there has to be something that states, like I said earlier before I ran out of time, that whoever fills this position has a background in criminal justice. I do not want to just get another broad spectrum attorney to fill the job. To me, you are worried about the budget, and if I am hearing this correctly, an attorney is twenty thousand dollars (\$20,000) more. Am I wrong? If we go with a deputy county attorney, that is twenty thousand dollars (\$20,000) more than a legal analyst. Am I correct?

Council Chair Rapozo:

Those are the numbers I read.

Mr. Bernabe:

Okay, then I am not wrong. If you are sitting on the position that this is a fiscal responsibility and you are uncomfortable with the expenditure, I already pointed out that the status quo is expensive already. We are losing and already spending money on all of this and criminals are free and some of us are victims of these people that have slipped through the cracks of having bad guidance from the current system for the last six (6) years. If this is a financial issue, then you would want to go with a legal analyst because it is twenty thousand dollars (\$20,000) cheaper and at the end of the day, it will get the same job done. The only difference is...you shake your head, but for what the Chief needs, the job will get done. Let me repeat that, for what the Chief and the Police Department needs, an analyst is enough to get the job done, maybe even better in my thinking, because they will have another process to go to the attorneys at the next level and that will be a checks and balances in my view. The more eyes and brains there are, the better it is. It is due process. That is how it is supposed to go anyway. I will end it there.

Council Chair Rapozo: Thank you, Matt. Anyone else wishing to testify? If not, I will call the meeting back to order. Discussion? Councilmember Kagawa.

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Kagawa: I want to thank you for putting this before the Council, as I want to repeat that one of the great benefits of having this Bill is that even if it does not pass, I think we have showed the importance of having this

position of meeting accreditation. Let me just review some things for those that are not familiar with accreditation. For example, for major colleges and universities, if you do not have accreditation, your students' degree may be valued as "less worthy" than an accredited college, and thereby it is harder to attract students to the universities. For public schools, it identifies schools that are not using best teaching practices and not complying with federal laws such as "No Child Left Behind" et cetera, and basically it will force the State to put more oversight into what schools are not accredited. For law enforcement, I just did a little research and one could say that it is even more important for law enforcement because if it is the County's most important function like protecting the safety of people, some of the goals of accreditation will increase the law enforcement agency's capability to prevent and control crime to enhance the safety of the agency personnel as well as community members. Some of the benefits is that regarding lawsuits, maintaining accreditation assists with deterring frivolous lawsuits when attorneys are aware of an agency not having the accreditation status. I think the Council not approving it during budget...I think we did not become aware of how important Kaua'i County not having that accreditation status is. It is important for a large body. It is a thirty million dollar (\$30,000,000) a year operation. To say that one hundred thousand dollars (\$100,000) is a lot of money when it affects our...I would say our most important function, as a County, I think it is really "peanuts." I think we all agree that while we want to reach that goal of accreditation, you do not just reach it having officers. An agency that reaches accreditation normally has an accreditation manager or attorney that just focuses on working with the Commission on Accreditation for Law Enforcement Agencies (CALEA). That person works directly. Just as the Chief had presented, I think they want to use this person to get us to reach that status of accreditation. For me, I think we are looking at possibly another alternative down the line, but I would think that if we want to reach that accreditation status, we need somebody that is under the direction of the Chief. If that person is not doing his job, then they let them go and say, "We need somebody else. You are not helping us to achieve our goals." Under the scenario that is being talked about, they will not have that control if that person is not the right person. Not every person fits a job, especially one as complicated as this. We have not had accreditation status for I do not know how long. Certainly, I think that not having that direct control concerns me a little bit; however, I do have a lot of confidence in Mauna Kea. At the end of the day, I just hope that the Police Department has someone to help them with reaching that accreditation. If it does not work under the new plan, as will come forth, then I think we can point at ourselves and say we should have tried it this way, not to say that this is guaranteed to work, but I think this gives it our best shot that the Police Chief and his managers have the control and the oversight, amongst other things. Look at how many lawsuits have hit the Police Department in recent years. Hopefully, we can avoid some of these or lessen it at least. I will be supporting this. Thank you, Chair.

Council Chair Rapozo: Thank you. Anyone else? Nobody? Go ahead, Councilmember Yukimura.

Councilmember Yukimura: After hearing all of the discussion, and thank you to the Administration and the Kaua'i Police Department for working so hard on an alternative, I believe that the majority supports providing a position and legal services to the Police Department, so all the concerns about us not addressing that are not really at issue. The issue is what form of legal services should be provided, I do not believe it is just those with expertise in law enforcement who should have a say about this because the issue is not just about law enforcement; it is about budget, the integrity of County functioning, interdepartmental functioning and integrity of legal services to the County, and also about removing duplication. I

want to commend the Mayor's Office and the Kaua'i Police Department for working hard because I know it was hard work to find a solution together. I think the alternative is worth a try. We have a new County Attorney, so I do not think we assume that the past is going to be the future. I also think that having a deputy who is capable of actually doing the work of an attorney in its complete spectrum of work is going to be much better for the Police Department. It will give them more flexibility and remove some duplication in the County Attorney's Office. I think it is worth the effort and I really appreciate the effort to come up with something that could work for both the Kaua'i Police Department and the County as a whole.

Council Chair Rapozo:

Councilmember Kualii.

Councilmember Kualii: I am still supporting this position for two (2) primary reasons, one being the fiscal reason which is important, which is that the job needs to be done and can be done by a legal analyst. The legal analyst is the maximum salary I am willing to pay to do the job that the Chief needs to get done. The Chief and KPD have told us the job can be done by a new legal analyst. For any legal advice or legal opinions, they can continue to get that from the County Attorney. The second part of it is about management and supervision. The people have talked about taking the politics out of it. Well, the way to take the politics out of it is to let the Chief and KPD have their legal analyst. They justified the need. They are asking for the position. They have shown us all the duties that need to be accomplished by that position. It makes no sense if the position is going to be located in KPD, work serving KPD day in and day out. The majority is not one hundred percent (100%) in reality, that it should also be hired and supervised by the Chief and his management staff. I see this as the "win-win" solution. I cannot believe that the Administration did not come to the same result and that we have gone back and forth. I do not know what is going on behind closed doors or what kind of deals are being made, but the obvious to me of what is sitting right before us is that we pass and support this position. It is the right thing to do budget-wise, every dollar counts. That twenty thousand dollar (\$20,000) difference for me is a big difference. Thank you.

Council Chair Rapozo:

Anyone else? Councilmember Kaneshiro.

Councilmember Kaneshiro: I have gone back and forth on this issue and I think last week we had a long, extensive conversation on what is the better position. As the Budget & Finance Chair, we have to be tight on the budget, but I do not think it is a matter of the budget right now. I think I have heard from both sides that there is a need for this position. If there is a need for it, then the next question is, "What is the biggest bang for the buck?" Is it going to be the legal analyst or is it going to be the deputy county attorney? When it does come down to the budget, the need is there, so you look at what is the biggest bang? A legal analyst or a deputy county attorney? It is very hard for me to answer it on my side because I do not know all the ins and outs, but basically you look at what position is going to free-up more time for the County Attorney? Right now what I am hearing is that the County Attorney, as the litigation team and their attorney team...and they are spread out...the guy that is dedicated to Police right now—he cannot spend one hundred percent (100%) of his time there because he has other departments that he is responsible for. What is the way to give them more time so that they can spread it out and have more resources to the other departments? My no vote last week did not say that I do not want a position there. We need somebody there. It is "what is the biggest bang for the buck?" From what I have heard through conversations, I have heard that...although, I know the struggle is between control, but when you talk about the "biggest bang for the buck," who can do the most work

at where they are, it was the deputy county attorney. The deputy county attorney could do all the work that a legal analyst could do, and then some. That is the analysis that I went through and I voted no on it last week and I am going to vote no on it again this week, but it was not a matter of "I do not want to give resources to Police." It is what is the "biggest bang for the buck?" I am a taxpayer. We are all taxpayers. I want to know what is going to free up the most resources so that County Attorney's Office can have his guy spend more time at Finance or when some other department needs more legal attention, then they can free it up. From what I heard, it is a deputy county attorney in that position. I know there is a bill that might come up or may not come up, but my position is that I want the "biggest bang for the buck." I want the County Attorney to be able to have more resources to spend his attention somewhere else. Like I said last week, is there a compromise? I am glad that the Mayor and the Police were able to come together and come to an agreement. Maybe it was not the agreement that both liked, but it was an agreement. I am comfortable with them putting a deputy county attorney there one hundred percent (100%) of the time, serving Police. Maybe they spend five percent (5%) on other issues, but my whole decision is what is the "biggest bang for the buck." I may be sticking my neck out there by voting no because people may get the impression that I do not want a legal analyst, but that is not true. It is not an issue of not having the person or not having the money in the budget. It is who is the "biggest bang for the buck" and who is going to provide the County with the most resources. That is basically what my decision comes down to and I know maybe I am naïve because in the past we have taken that position away, but we also have a new County Attorney. I am going to put my trust that we are going to say what we are going to do and do what we say. That is the way I am going to vote.

Council Chair Rapozo:

Anyone else? Councilmember Chock.

Councilmember Chock: My testimony is along the lines of Councilmember Kaneshiro's. First of all, I just wanted to thank Chair Rapozo. This discussion would not have taken place without him putting this forward and moving it forward with the passion that I see he has behind it. I understand his frustration. I further understand the need. It is apparent and there is no reason why we should not be accredited, so we have failed as a County and we failed our Police Department in the last six (6) years to get what we need. I think everyone around the table agrees about this need. It is interesting how this shows up right when the fire is lit, but I do see that some effort has been put forth with this potentially forthcoming bill that can and will achieve getting the support that the Police Department needs. I just wanted to speak from a leadership standpoint when we talk about really what is showing up and it is about control. It is a dynamic of management control because we have to handle things. That is what it means. From a perspective of leadership, I believe that working harder and together...working together is always much more difficult, and yet we can aspire to achieve more in that arena. That is what I am looking for. The outcome I am looking for is that we are all in this together. I am taking that the team building approach. This may be very difficult, but it is probably the right direction, especially given the past...I do not know all the details of the past in the political nature, but I think that what we are doing is actually forcing people to work together with this decision. What I do know about control is that it will typically lead to more division and more separation. We are coming together on this and I think that I will always support that direction of team approach, so I am not supporting this, but will definitely support where the conversation is leading to. I think that there may be even further discussion available for fire and hire rights within the Police Department. I think that they should have a say to some degree



and I like the ideas that have come forth on that. I also believe that what is happening is that the Mayor saying he is accountable. If he is then it is his neck out on the line and now he is going to have to follow through on his commitment or we stand to lose more trust and more division. I would like to see more of a follow-up in this proposal about how it is that we record the distribution of time and effort accordingly. To say that he is going to be there in person does not give me the satisfaction or understanding that they are getting the kind of outcomes that the Police Department wants ninety-five percent (95%) of this time. I want to know. To me, that is where the management practice comes into play. I want proof that that ninety-five percent (95%) of the time is being spent the way the Police Department wants it to be spent. I want to plan on that, so that was what I thought was missing from today's proposal. However, I still think that I will be moving towards not supporting this measure and supporting the next one. Thank you.

Council Chair Rapozo:

Anyone else? Councilmember Kuali'i.

Councilmember Kuali'i: I just want to say that we have only heard the justification based on the duties that need to be accomplished, the work of the job for a legal analyst, so that is what we should be supporting. We have heard that there is a need for a legal analyst. We have not heard that there needs to be a deputy county attorney, which is not what we are talking about today. So when you say there is the "biggest bang for the buck," it is not true. You are getting a bigger bang for bigger bucks. That is twenty thousand dollars (\$20,000) more. The overall majority of the work, the duties required, does not rise to the level of a deputy county attorney. Therefore, why would we kill this position in the hopes of maybe getting a deputy county attorney? It is sad that everyone agrees the job needs to be done, but we may end up without any position to help get this job done. That is very sad, and for what reason? We should never be at this point. From the very beginning, this should have been a very easy vote. In fact, we had four (4) votes in the budget. That would have been a majority in a normal vote, but in the budget to remove anything, it takes four (4) votes, but to add anything takes five (5). We were short a vote during the budget. Now here we are again. As the Chair talked about, this is not new and the need has existed for a long time now. That is why we are only County not accredited. We should be already. We need this legal analyst to at least do that and to do all the other research and analysis; all the ninety percent (90%), nearly one hundred percent (100%) of the position to support KPD, so that KPD can continue to get legal advice and written legal opinions from the County Attorney, as they do now. I do not know what the saying is, but it is like we are taking shotgun and trying to kill some little thing. It is overkill to think that we need to have a deputy county attorney position and I do not know why. I do not know why the Mayor has come to this place when the solution is simple. I continue to support the legal analyst position.

Council Chair Rapozo: Anyone else? This is your last opportunity to speak. Let me just say that I am obviously very disappointed and actually pretty confused. We sit here today and I will say that this has nothing to do with the fiscal part, absolutely nothing. Like Councilmember Kuali'i said, the alternate would cost more money. I am curious to see how the Members vote next time if this ever makes the agenda for a higher cost. If it is a fiscal issue, it is a fiscal issue. The job duties are basically the same. It all boils down to who controls it. We talked about commending the Administration and the Chief, and that both gave up something. What did the Administration give up? What did they give up? Nothing. The Chief gave up because he had to give up his ability to hire someone. The Administration and the Mayor gave up nothing. To say this was a compromise, it was not a compromise; it was an ultimatum. I am not an idiot. It is an ultimatum. It says,



"Chief, I am not going to support your legal analyst, so you may as well agree to this deputy county attorney." Somebody tell me, what did the Administration give up in this compromise? Nothing, so do not call it a compromise. It is pretty darn hypocritical to sit here today and say, "We are going to remove the duplication of effort and services. If that is true and if that is an argument, then why are we here today with two (2) Legal Analysts here in the Council Office? Two (2); not one (1). We give ourselves two (2). Everything is the same. They cannot give us legal opinions. We still have to run whatever we do here and review the policies over to the County Attorney. Are you suggesting that if we kill this because of that, that now we have to take away our Legal Analysts, too, and give that to the County Attorney? That is the reality of this. It is not about anything but...it is a personal thing. It is we do not want the Police Chief to have any power, because if that argument is going to be held across the board, then we damn sure better apply it to our own office here. I want to hear that argument. "Ours is different because we are separate body." Really? So we play by different rules? No, we still have the same Charter. You see the manipulation of this Charter interpretation all through this issue because the end has been predetermined. "No, we cannot give the Chief the position. Let us just justify it and use whatever we can. We had a compromise." Well, there was no compromise. The Chief gave up everything that was to be given up. Someone else said, "This is worth a try." I agree. That is why I did the Bill. This Bill was only for funding for the remainder of this current fiscal year. It is not a permanent position. We tried their way. We tried the position in the County Attorney's Office and it failed. Guess what? Let us fund another failure. That is what we are doing today. Chief, we are going to put you against the odds because we know this process does not work, because we know that whenever an issue comes up, the deputy county attorney belongs to the Administration to the County Attorney's Office. Some will say, "No, the County Attorney is independent." Yes, he is supposed to be, but we saw that in the past and to expect that things will be different is really naïve. So I tried because if something does not work, then we try a different way. We change the play. That is what we do. That is what this is an effort to do. I should have known coming in that, "Mel, there is no sense in going down that road," because as Mr. Mickens would say, "It is just an exercise in futility," because I know already. It is funny how in the budget, we like Councilmember Kuali'i said, it is definitely good in the budget with four (4) votes, but now because the Mayor does not want it, we do not get it. All of a sudden we only get three (3). I think we have to remind ourselves that that separation of power is there for a reason. It is for us to be independent thinkers. If this body believes that somebody needs something, we should give it. If the Mayor disagrees, then he disagrees and he can do what he wants on his side of the fence. I would support the deputy county attorney position if they agreed if the Mayor gave up his right to hire who he wants and lets the Chief hires who he wants and let the Chief take care of the hiring, firing, and all of that. I would support that, but absent that, I can promise you that it will not pass. That is all I have. With that, roll call. Councilmember Yukimura, I already asked you if you wanted to speak before me.

Councilmember Yukimura: I only spoke once.

Council Chair Rapozo: I understand that and I said this was your last chance to speak.

Councilmember Yukimura: Well, so you can control and have the last say?

Council Chair Rapozo: I can and that is what the Chair does, and I think you know that, Councilmember Yukimura.

Councilmember Yukimura: I appeal the decision of the Chair.

Council Chair Rapozo: Okay, go ahead. Appeal it. Let us go.

Councilmember Yukimura: Well, you need a vote.

Council Chair Rapozo: No, you need to make a motion.

Councilmember Yukimura: I did.

Council Chair Rapozo: I did not hear it.

Councilmember Yukimura appealed the Council Chair's decision to disallow her to comment after Council Chair last spoke, seconded by Councilmember Hooser.

Council Chair Rapozo: Okay.

Councilmember Hooser: I have some discussion.

Council Chair Rapozo: Go ahead.

Councilmember Hooser: I think it is important that we are consistent and follow the rules. Well, number one, the rules do not specify that no one can speak after the Chair, and in the past on occasion, I, myself have spoken after the Chair. The rules specify that we have two (2) times to speak per person up to five (5) minutes at the end. If we are going to change the rules at some point, we can have that discussion, but the rules say that each of us is allowed to speak twice with a maximum of five (5) minutes.

Council Chair Rapozo: Right. When I did not say this was your last opportunity to speak, we allowed the person to speak after the Chair, and I made that perfectly clear today, because I believe one of the benefits of being the Chair is being able to speak last. That has been the way it has been and that is what I am going to stand by. I did say that this is your last opportunity to speak very clearly and nobody wanted to speak, so we are going to have a roll call.

Councilmember Yukimura: Chair, I have discussion.

Council Chair Rapozo: Go ahead.

Councilmember Yukimura: It is not in the rules that the Chair should speak last. You are making up that rule.

Council Chair Rapozo: Correct. It is not a rule; I am just saying that...

Councilmember Yukimura: If you want that rule, then you propose it as a rule, but it is not a rule.

Council Chair Rapozo: Councilmember Yukimura, hold on.

Councilmember Yukimura: Therefore, the rule is that we have two (2) times to speak and I am asking that...

Council Chair Rapozo: Recess, five (5) minutes.

There being no objections, the meeting recessed at 11:29 a.m.

The meeting reconvened at 11:33 a.m., and proceeded as follows:

Council Chair Rapozo: The meeting is called back to order. Councilmember Yukimura has appealed my ruling to end the discussion. Basically, a yes vote agrees with Councilmember Yukimura that she will get to speak after the Chair.

The motion to appeal the Council Chair's decision to disallow her to comment after the Council Chair last spoke was then put, and failed by the following vote:

|                       |                                   |            |
|-----------------------|-----------------------------------|------------|
| FOR APPEAL:           | Chock, Hooser, Yukimura           | TOTAL – 3, |
| AGAINST APPEAL:       | Kagawa, Kaneshiro, Kualii, Rapozo | TOTAL – 4, |
| EXCUSED & NOT VOTING: | None                              | TOTAL – 0, |
| RECUSED & NOT VOTING: | None                              | TOTAL – 0. |

Council Chair Rapozo: With that, roll call.

Ms. Fountain-Tanigawa: This is a roll call vote on the motion to approve Bill No. 2595.

The motion for adoption of Bill No. 2595, on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and failed by the following vote:

|                       |                                    |            |
|-----------------------|------------------------------------|------------|
| FOR ADOPTION:         | Kagawa, Kualii, Rapozo             | TOTAL – 3, |
| AGAINST ADOPTION:     | Chock, Hooser, Kaneshiro, Yukimura | TOTAL – 4, |
| EXCUSED & NOT VOTING: | None                               | TOTAL – 0, |
| RECUSED & NOT VOTING: | None                               | TOTAL – 0. |

Councilmember Kualii moved to receive Bill No. 2595 for the record, seconded by Councilmember Yukimura, and carried by the following vote:

|                       |  |             |
|-----------------------|--|-------------|
| FOR RECEIPT:          | Chock, Hooser, Kagawa, Kaneshiro, Kualii, Yukimura, Rapozo | TOTAL – 7*, |
| AGAINST RECEIPT:      | None   | TOTAL – 0,  |
| EXCUSED & NOT VOTING: | None   | TOTAL – 0,  |
| RECUSED & NOT VOTING: | None   | TOTAL – 0.  |

(\*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kauai, Councilmember Kagawa was noted as silent, but shall be recorded as an affirmative for the motion.)

Council Chair Rapozo: Are we ready for Bill No. 2594?

Councilmember Kualii: Yes.

Councilmember Kualii withdrew his to amend Bill No. 2594 as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1, Councilmember Kagawa withdrew his second.

Councilmember Kualii moved to amend Bill No. 2594 as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 2, Councilmember Kagawa.

Councilmember Kualii: The typos are still the same and the only change is the three (3) dates that we got agreement from the Administration on.

The motion to amend Bill No. 2594 as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 2 was then put, and unanimously carried.

Council Chair Rapozo: We are back to the main motion. Everybody in agreement? If so, roll call.

The motion for adoption of Bill No. 2594, as amended to Bill No. 2594, Draft 1, on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

|                       |                                   |             |
|-----------------------|-----------------------------------|-------------|
| FOR ADOPTION:         | Chock, Hooser, Kagawa, Kaneshiro, |             |
|                       | Yukimura, Rapozo                  | TOTAL – 6*, |
| AGAINST ADOPTION:     | Kualii                            | TOTAL – 1,  |
| EXCUSED & NOT VOTING: | None                              | TOTAL – 0,  |
| RECUSED & NOT VOTING: | None                              | TOTAL – 0.  |

*(\*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Yukimura was noted as silent, but shall be recorded as an affirmative for the motion.)*

Council Chair Rapozo: You never know what is going to happen on the floor of this County Council. That is all for the agenda today. We do have an Executive Session. May you read the Executive Session?

#### EXECUTIVE SESSION:

ES-814 Pursuant to Hawai'i Revised Statutes Sections 92-4 and 92-5(a)(2) and (4), and Kaua'i County Charter Section 3.07(E), the Kaua'i County Council requests an Executive Session with the County Attorney pertaining to the hiring of a County Auditor and to consult with the County's legal counsel. This Executive Session pertains to the hiring of a County Auditor where consideration of matters affecting privacy will be involved as they relate to this agenda item.

Councilmember Kagawa moved to convene in Executive Session for ES-814, seconded by Councilmember Chock.

Council Chair Rapozo: Before we convene in Executive Session, I just want to let everybody know that we have a public hearing at 1:30 p.m., which is on Councilmember Kualii's Resolution on the living wage, paid sick leave, paid family medical leave, and the right to organize, as well as the money bill for KPD's Abandoned/Derelict Vehicle Coordinator. That is at 1:30 p.m. Roll call.

The motion to convene in Executive Session for ES-814 was then put, and carried by the following vote:

|                            |                                   |            |
|----------------------------|-----------------------------------|------------|
| FOR EXECUTIVE SESSION:     | Chock, Hooser, Kagawa, Kaneshiro, |            |
|                            | Kuali'i, Yukimura, Rapozo         | TOTAL - 7, |
| AGAINST EXECUTIVE SESSION: | None                              | TOTAL - 0, |
| EXCUSED & NOT VOTING:      | None                              | TOTAL - 0, |
| RECUSED & NOT VOTING:      | None                              | TOTAL - 0. |

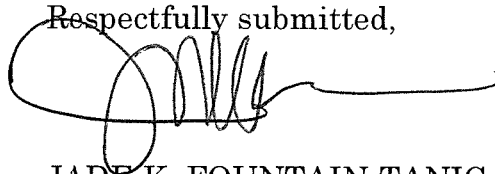
Council Chair Rapozo:  
meet in the Executive Chambers.

With that, let us take ten (10) minutes and

ADJOURNMENT:

There being no further business, the meeting was adjourned at 11:37 a.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA  
County Clerk

:cy

(September 16, 2015)

FLOOR AMENDMENT

Bill No. 2594, A Bill For An Ordinance Amending Ordinance No. B-2015-796, As Amended, Relating To The Operating Budget Of The County Of Kaua'i, State Of Hawai'i, For The Fiscal Year July 1, 2015 Through June 30, 2016, By Revising Section 19 Of The Operating Budget Provisos

Introduced by: KIPUKAI KUALI'I

Amend Bill No. 2594, SECTION 1 in its entirety to read as follows:

"SECTION 1. That pursuant to Sections 19.07B of the Charter of the County of Kaua'i, as amended, Ordinance No. B-2015-796, as amended, relating to the Operating Budget of the County of Kaua'i, State of Hawai'i, for the Fiscal Year July 1, 2015 through June 30, 2016, be hereby amended by amending Section 19 of the Operating Budget Provisos as follows:

[SECTION 19. Pursuant to Section 7.08(A)(4) of the Charter of the County of Kaua'i, the Managing Director shall provide written quarterly update reports (September 30, 2015, December 31, 2015, March 31, 2016, and June 30, 2016) to the County Council of any vacancies, new hires, transfers, reallocations, promotions, elimination of positions, or dollar-funded positions approved within the County during the Fiscal Year indicating the following:

- a) Reports for all vacancies shall indicate:
  - i) the effective date of the vacancy;
  - ii) the affected Department/Division;
  - iii) the position number and the position title;
  - iv) the position salary rating and the position salary step;
  - v) the position annual salary last paid;
  - vi) the funding source;
  - vii) the total number of days the position was vacant;
  - viii) the total number of days in the current Fiscal Year the position was vacant;
  - ix) the estimated salary savings for the current Fiscal Year;
  - x) the current status of recruitment, to include, but not be limited to, the dates for the following:
    - a. Position posting status (i.e., position posted by, position posted on, or position posting closed on)
    - b. Application status (i.e., applications reviewed by or applications reviewed on)
    - c. Interview selection status (i.e., applicants for interview selected by or applicants for interview selected on)
    - d. Interview schedule status (i.e., interviews scheduled by, interviews scheduled on, or interviews completed on)
    - e. Job offer status (i.e., job offer made by, job offer made on, or job offer accepted or declined on); and

- xi) the justification for all vacancies (i.e., retirement, promotion, incumbent-initiated separation, etc.)
- b) Reports for all new hires shall indicate:
  - i) the effective date of the new hire;
  - ii) the affected Department/Division;
  - iii) the position number and the position title;
  - iv) the position salary rating and the position salary step;
  - v) the position annual salary to be paid to new hire;
  - vi) the justification if annual salary is higher than entry level (first step);
  - vii) the funding source; and
  - viii) the justification for all new hires, to include, but not be limited to, the dates for the following:
    - a. Position vacant since
    - b. New position created on
    - c. Position reallocated on
- c) Reports for all transfers, reallocations, promotions, elimination of positions, or dollar-funded positions shall indicate:
  - i) the effective date;
  - ii) the affected Department/Division;
  - iii) the current and/or amended position number and position title;
  - iv) the previous salary rating and current and/or amended salary rating;
  - v) the previous salary step and current and/or amended salary step;
  - vi) the previous annual salary and current and/or amended annual salary;
  - vii) the funding source; and
  - viii) the justification for all transfers, reallocations, promotions, elimination of positions, or dollar-funded positions.

The Managing Director shall submit the quarterly reports to the County Council no later than 30 days after the close of each quarter. A copy of the report shall also be submitted to Council Services Staff electronically, preferably in Excel format.]

“SECTION 19. Pursuant to Section 7.08(A)(4) of the Charter of the County of Kaua‘i, the Managing Director shall provide written reports to the County Council on or about October 15, 2015, January 15, 2016, and March 15, 2016 of any vacancies, new hires, transfers, reallocations, promotions, elimination of positions, or dollar-funded positions approved within the County during the Fiscal Year indicating the following:

- a) Reports for all vacancies shall indicate:
  - i) effective date of the vacancy
  - ii) the affected Department/Division
  - iii) the position number and position title

- iv) position salary range
- v) the funding source
- vi) the total number of days the position was vacant
- vii) the total number of days in the current Fiscal Year the position was vacant
- viii) the estimated salary savings for the current Fiscal Year

b) Reports for all new hires shall indicate:

- i) effective date of the new hire
- ii) the affected Department/Division
- iii) the position number and position title
- iv) position salary range
- v) the funding source

c) Reports for all transfers, reallocations, promotions, elimination of positions, or dollar-funded positions shall indicate:

- i) effective date
- ii) the affected Department/Division
- iii) the current and/or amended position number and position title
- iv) the previous position salary range
- v) the funding source

The Managing Director shall submit the reports to the County Council no later than ten (10) days after the dates indicated above. A copy of the report shall also be submitted to the Office of the County Clerk, Council Services Division Staff electronically, preferably in Excel format."

(Material to be deleted is bracketed. New material is underscored.)

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(September 16, 2015)  
FLOOR AMENDMENT

Bill No. 2594, A Bill For An Ordinance Amending Ordinance No. B-2015-796, As Amended, Relating To The Operating Budget Of The County Of Kaua'i, State Of Hawai'i, For The Fiscal Year July 1, 2015 Through June 30, 2016, By Revising Section 19 Of The Operating Budget Provisos

Introduced by: KIPUKAI KUALI'I

Amend Bill No. 2594, SECTION 1 in its entirety to read as follows:

"SECTION 1. That pursuant to Sections 19.07B of the Charter of the County of Kaua'i, as amended, Ordinance No. B-2015-796, as amended, relating to the Operating Budget of the County of Kaua'i, State of Hawai'i, for the Fiscal Year July 1, 2015 through June 30, 2016, be hereby amended by amending Section 19 of the Operating Budget Provisos as follows:

"[SECTION 19. Pursuant to Section 7.08(A)(4) of the Charter of the County of Kaua'i, the Managing Director shall provide written quarterly update reports (September 30, 2015, December 31, 2015, March 31, 2016, and June 30, 2016) to the County Council of any vacancies, new hires, transfers, reallocations, promotions, elimination of positions, or dollar-funded positions approved within the County during the Fiscal Year indicating the following:

- a) Reports for all vacancies shall indicate:
  - i) the effective date of the vacancy;
  - ii) the affected Department/Division;
  - iii) the position number and the position title;
  - iv) the position salary rating and the position salary step;
  - v) the position annual salary last paid;
  - vi) the funding source;
  - vii) the total number of days the position was vacant;
  - viii) the total number of days in the current Fiscal Year the position was vacant;
  - ix) the estimated salary savings for the current Fiscal Year;
  - x) the current status of recruitment, to include, but not be limited to, the dates for the following:
    - a. Position posting status (i.e., position posted by, position posted on, or position posting closed on)
    - b. Application status (i.e., applications reviewed by or applications reviewed on)
    - c. Interview selection status (i.e., applicants for interview selected by or applicants for interview selected on)
    - d. Interview schedule status (i.e., interviews scheduled by, interviews scheduled on, or interviews completed on)
    - e. Job offer status (i.e., job offer made by, job offer made on, or job offer accepted or declined on); and

- xi) the justification for all vacancies (i.e., retirement, promotion, incumbent-initiated separation, etc.)
- b) Reports for all new hires shall indicate:
  - i) the effective date of the new hire;
  - ii) the affected Department/Division;
  - iii) the position number and the position title;
  - iv) the position salary rating and the position salary step;
  - v) the position annual salary to be paid to new hire;
  - vi) the justification if annual salary is higher than entry level (first step);
  - vii) the funding source; and
  - viii) the justification for all new hires, to include, but not be limited to, the dates for the following:
    - a. Position vacant since
    - b. New position created on
    - c. Position reallocated on
- c) Reports for all transfers, reallocations, promotions, elimination of positions, or dollar-funded positions shall indicate:
  - i) the effective date;
  - ii) the affected Department/Division;
  - iii) the current and/or amended position number and position title;
  - iv) the previous salary rating and current and/or amended salary rating;
  - v) the previous salary step and current and/or amended salary step;
  - vi) the previous annual salary and current and/or amended annual salary;
  - vii) the funding source; and
  - viii) the justification for all transfers, reallocations, promotions, elimination of positions, or dollar-funded positions.

The Managing Director shall submit the quarterly reports to the County Council no later than 30 days after the close of each quarter. A copy of the report shall also be submitted to Council Services Staff electronically, preferably in Excel format.]

“SECTION 19. Pursuant to Section 7.08(A)(4) of the Charter of the County of Kauai, the Managing Director shall provide written reports to the County Council on or about November 15, 2015, March 15, 2016, and May 1, 2016 of any vacancies, new hires, transfers, reallocations, promotions, elimination of positions, or dollar-funded positions approved within the County during the Fiscal Year indicating the following:

- a) Reports for all vacancies shall indicate:
  - i) effective date of the vacancy
  - ii) the affected Department/Division
  - iii) the position number and position title

- iv) position salary range
  - v) the funding source
  - vi) the total number of days the position was vacant
  - vii) the total number of days in the current Fiscal Year the position was vacant
  - viii) the estimated salary savings for the current Fiscal Year
- b) Reports for all new hires shall indicate:
- i) effective date of the new hire
  - ii) the affected Department/Division
  - iii) the position number and position title
  - iv) position salary range
  - v) the funding source
- c) Reports for all transfers, reallocations, promotions, elimination of positions, or dollar-funded positions shall indicate:
- i) effective date
  - ii) the affected Department/Division
  - iii) the current and/or amended position number and position title
  - iv) the previous position salary range
  - v) the funding source

The Managing Director shall submit the reports to the County Council no later than ten (10) days after the dates indicated above. A copy of the report shall also be submitted to the Office of the County Clerk, Council Services Division Staff electronically, preferably in Excel format."

(Material to be deleted is bracketed. New material is underscored.)  
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